SENATE—*Thursday, May 27, 1993*

(Legislative day of Monday, April 19, 1993)

The Senate met at 9 a.m., on the expiration of recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.—Psalm 127:1.

Almighty God, Lord of history and the nations, give us the grace to acknowledge our need of You. Forgive us for saying we believe in You and acting as though You are nonexistent. In our sophisticated age of science and technology, we assume there is no problem we cannot solve, then wonder why our best efforts so often seem futile. Help us understand that we do not abdicate our responsibility when we look to You for aid. We do not abandon our intellect when we look to You for wisdom.

Grant us grace to acknowledge our need of You, that we may face our problems, personal and political, with hearts that are strengthened and minds enlightened by divine intervention.

In the name of Jesus, Light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 27, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FEINGOLD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3) entitled "Congressional Spending Limit and Election Reform Act of 1993."

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell/Ford/Boren amendment No. 366, in the nature of a substitute.

(2) Wellstone amendment No. 367 (to amendment No. 366), to strengthen the restrictions on contributions by lobbyists.

(3) Wellstone amendment No. 368 (to amendment No. 367), in the nature of a substitute.

(4) Hollings amendment No. 380 (to amendment No. 366), to express the sense of the Senate that the Congress should adopt a joint resolution calling for an amendment to the Constitution that would empower Congress and the States to set reasonable limits on campaign expenditures.

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to address the Senate for 10 minutes, as if in morning business. However, if the leadership wants the floor before that period of time, I will give it up whenever the leadership ask for it.

Mr. SPECTER. Reserving the right to object, and I shall not object, I would just like to say, in advance of the time for the distinguished Senator from Iowa, that I am here this morning to proceed in support of amendment No. 380, which is a sense-of-the-Senate resolution calling for a constitutional amendment to permit Congress and State legislatures to impose appropriate limits on campaign financing.

Senator HOLLINGS, my distinguished colleague, is here, so I shall say no more about it and yield at this time to our colleague from Iowa.

The ACTING PRESIDENT pro tempore. Is there further objection? If not, without objection, it is so ordered.

A LEADERSHIP CRISIS IN WASHINGTON

Mr. GRASSLEY. Mr. President, on May 23, the Des Moines Register wrote an editorial that I would like to take issue with. The issue is the Clinton Presidency. The arguments advanced by the Register represent an understandable viewpoint. However, it does not quite hit the mark. I rise today to help focus the aim.

The editorial is called "The Deficit, and a Gridlock of Spirit." The gist of the article is the following—and I use the Register's own words:

Americans are not behaving as one people, but rather as a collection of groups, each with its own agenda.

Clinton * * * needs to incite a loud public roar for action that can be heard above the shrill pleadings of all the "me-first" voices.

Clinton needs to succeed in this. Not for his sake, but for the country's.

Mr. President, the problem is correctly depicted by the Register. So is the solution. But the means for solving the problem, Mr. President, are not correct, in my view. My statement this morning is about the means. It is also about leadership.

The Register correctly points out that Members of Congress are often preoccupied with the parochial interests of their States and districts. It is the job of the President to lead the country above that level of politics.

From that standpoint, the Des Moines Register is correct, Mr. President. That is how the Founding Fathers envisioned it. The House of Representatives was closest to the people and mirrored their passions; the Senate would ensure that reason would temper the passions that spilled over from the House; and, the President would inspire and lead the Nation to a higher purpose for the collective, public good.

The Register's editorial suggests that the President should lead by taking his case to the people, and by directly confronting his opponents.

It seems the Register is saying that if the President would just yell loud enough, the public would be outraged and Members of Congress would do what is right.

But the problem is, the President has not come up with what is right. And coming up with what is right is the whole essence of leadership.

Albert Einstein once said:

Setting an example is not the main means of influencing another, it is the only means.

This is where it all starts, Mr. President. Leadership begins and ends in the example set by the White House.

Let us review the White House record.

The President campaigned as one of the common folk. Yet the common folk do not spend $200 for a haircut.

The President campaigned in support of public education. Yet his daughter goes to a private school.

The President says he will cut his staff by 25 percent. But he replaces

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

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them through the back door from other agencies.

The Vice President campaigns on reinventing Government. But the Vice President has five offices, and a large staff to run them all.

There are more examples. But I assume the point is clear, Mr. President. Setting an example is the only means for leadership. When the example is not set, no one will follow.

What is more, the economic plan itself is not perceived as fair.

The polls are reflecting this. The latest polls show that the President's approval ratings are now lower than his disapproval ratings. For his performance on the economy, it is lower still.

Is this surprising, given that the reconciliation bill has $5 in tax increases for every $1 in spending cuts?

Is this surprising, given that the President himself has not sacrificed even though he asks America to?

Is this surprising, given that the President got only 43 percent of the vote in November?

Mr. President, leadership-by-example and fair policies provide one with the moral authority to lead. Without fairness and without example setting, there can be no leadership. No one will follow when the moral authority to lead is absent.

When the President lacks the moral authority to lead, what happens is that politicians and the people sink to that lower political level—where each defends his or her narrower interest or agenda. This is the natural state of a civil society. The one is the direct result of the absence of the other.

Yes, the President needs to, as the Des Moines Register says, incite a loud public roar for action.

We all want the President to succeed for the country's sake. But that roar must be for what is right. And $5 in tax increases to $1 in spending cuts is not right. And it sure as heck is not right when the President says he will set an example and then does not.

What we have here, Mr. President, is the makings of a leadership crisis in Washington. This crisis is evident in that not only are Republicans trying to hold the President to his campaign pledges, but so are the Democrats. And most importantly, so are the people. It was the Republicans saying "no" to the stimulus pork bill.

But it is the Democrats, along with this side, saying "no" to the tax bill. And it is the people saying "cut spending first."

And it is not just here at home. Our European allies are turning their backs on our entreaties to address the situation in Bosnia.

All of these examples are indicators of a growing perception of failed leadership. Someone needs to tell the emperor he has no clothes. And then someone needs to find him a fig leaf.

Who is advising the President, anyway? Is it the same ones who advised him to get a $200 haircut at LAX for 45 minutes, while traffic was rerouted?

Is it the same ones who advised the FBI to provide cover for travelgate?

Mr. President, this is a serious issue.

Perhaps the White House would like some gratuitous advice. Well, here goes:

First, we should not blame the public for not hearing the message. They have heard the message, and it is not selling.

And, we should not blame Congress for not wanting to swallow a $300 billion tax hike. It is the wrong medicine for what ails America. If you think it is the right medicine, I will bet you would spend $200 for a haircut.

The moral of the story is, you cannot make followers follow. That is like trying to force a cat to purr. Cats cannot be forced to purr. They purr only when you treat them right—and you have to convince them that you are sincere.

Instead, you have to make leaders lead. And before you can lead, you need to come up with what is right—for Democrats, for Republicans, and for all Americans.

The way you get a cat to purr is to love it. The way you get a nation to follow is to lead it.

You need to set the example, and ask them to do what is fair. That is what is missing from this administration.

You cannot ask others to do what you are not willing to do yourself.

Right now, there is no leadership coming from the White House because it lacks the moral authority required. The White House has cut that right out from under itself: Beginning with its many broken promises, and right up to travelgate and hairgate.

Mr. President, this administration already faces a skeptical public, full of cynicism. It faces a skeptical international community. It faces not just a partisan foe in the Republican Party—but it also faces the significant Perot factor.

That is an awful lot of skeptics that this President needs to lead. The more skeptical they become, the tougher it is to lead them. It is enough to compel anyone to get its act together. Otherwise, this administration will come apart at the seams.

So much for free advice from this Senator. Perhaps the advice of a former President would carry more weight.

Dwight Eisenhower once had this to say about leadership. He said:

> The supreme quality for a leader is unquestionable integrity. Without it, no real success is possible, no matter whether it is in a section gang, on a football field, in an Army, or in an office. If his associates find him guilty of phoniness, if they find that he lacks forthright integrity, he will fail. His teachings and actions must square with each other. The first great need, therefore, is integrity and high purpose.

Mr. President, this quote from former President Eisenhower captures the essence of the problem facing this administration. The solution is not to yell louder so the public can hear. The solution is not to directly confront opponents. The solution is not to blame the followers for not following.

The solution is to lead and inspire. We need a vision of high purpose and a policy of fairness to reach it. We need forthright integrity, in which—as Eisenhower says—teachings and actions square with each other. And, we need a leader to set an example—one who does first what he asks others to do.

Mr. President, America desperately needs this kind of leadership. Without it, we will not succeed in turning our country around. I just hope the White House gets the message.

I ask unanimous consent to have the editorial from the Des Moines Register printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DEFICIT, AND A GRIDLOCK OF SPIRIT

It's only natural for members of Congress to represent the parochial concerns of their states. Congress has always been a cacophony of narrow interests, each tending to put its own welfare first.

It's the president's job to overcome that. Only the president is elected by all of the people. Only the president can rise above regional and special interests in trying to move the country ahead as one nation, guided by the broad national interest.

Bill Clinton's presidency is in danger of failing because of his inability, so far, to do that. His program is being picked to shreds in Congress.

Midwestern members want to keep a tax break for ethanol and oppose higher fuel taxes for river barges. Western members oppose higher grazing and mining fees on public lands. The aluminum industry makes a case for exemption from higher energy taxes. Eastern coal interests succeeded in getting a tax shifted to electricity producers instead of coal companies. And on and on.

The biggest blow came last week when Democratic Senator David Boren of Oklahoma declared he will not under any circumstances support Clinton's proposed energy tax. He's a member of the Senate Finance Committee, and the tax might well be dead without his vote.

The proposed tax on the Btu content of fuels is the cornerstone of Clinton's program. Having already seen his modest economic-stimulus package gutted in Congress, Clinton cannot let it happen again to his much more important deficit-reduction program.

An intact Btu tax, or a substitute new tax that will raise as much or more revenue, must be passed by Congress this year. The combination of a tax increase and spending reductions is the only hope of significantly reducing the runaway federal deficits.

The spiel of Clinton's opponents is that spending should be cut more before taxes are raised. But look closely at their proposed cuts and most of them amount to promises to cut something sometime in the future, not now. Sound familiar? It's just another variation of the same old game that caused the problem in the first place.

Without Clinton's program, or something close to it, nothing will change. America will keep sinking deeper into debt. The gridlock on the Potomac will not have been broken.

By electing a president and a Congress of the same political party, voters last fall might have thought they were breaking the gridlock. But it is becoming apparent that the paralysis is something more profound than a mere difference between Republicans and Democrats. There is a gridlock of the spirit in this country, and it is reflected in Washington.

Americans are not behaving as one people, but rather as a collection of groups, each with its own agenda. Don't cut my benefits; cut somebody else's. Don't tax my industry; tax somebody else's. Perhaps this is not any worse than it's always been, but the rise of political-action committees and special-interest-group politics has given it more expression. Clinton's task may be more difficult than faced by presidents of the past, but it's still his job to weld the nation to a common purpose.

Clinton has begun to take his case to the people, but he needs to do it more effectively. He needs to paint the sorry picture of what will happen if his program isn't enacted; he needs to cast a vision of how things will be better if it is. He needs to confront directly those who oppose him by asking whether they represent the national interest or narrow interests. And he needs to incite a loud public roar for action that can be heard above the shrill pleadings of all the "me-first" voices.

Clinton needs to succeed in this. Not for his sake, but for the country's.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

AMENDMENT NO. 380

Mr. SPECTER. Mr. President, the pending business is the campaign finance reform bill and the pending amendment is the one which was laid down last night, shortly before adjournment, offered by the distinguished Senator from South Carolina, who is on the floor, and a number of other Senators, including myself.

The amendment which is pending is a very brief one. It states:

It is the sense of the Senate that Congress should adopt a joint resolution proposing an amendment to the Constitution that would—

(1) empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office; and

(2) empower the States to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for State or local office.

The constitutional amendment is necessary because the Supreme Court of the United States, on January 29, 1976, ruled that the first amendment freedom of speech contained within it a constitutional right for any candidate to spend as much of his or her money as that candidate chose. In so doing, the Court invalidated a provision of the 1974 campaign finance law which limited what individuals could spend.

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At the same time, the Court upheld other limitations in the statute which limited the amount that other individuals may give to a candidate; illustratively, for a Senator, $1,000 in a primary and $1,000 in a general, and political action committees being limited to $5,000 in the primary and $5,000 in the general.

There are, beyond question, items which ought to be changed. There is great public cynicism and great public outcry about campaign financing, and there ought to be changes. That is why we are debating this bill. But the crux of the issue has turned on Buckley versus Valeo, and the constitutional requirement that an individual be allowed to spend as much of his or her own money as he or she may choose.

The more direct approach, the most direct approach, is the one proposed by Senator HOLLINGS and myself, which goes to the core of the Buckley decision, and says that campaign expenditures are not a part of freedom of speech.

The Buckley versus Valeo decision was a hotly contested case, with dissents—a split Court. To my view, my opinion, my judgment—having worked over the Constitution for some considerable time since law school, in the practice of law, being district attorney of Philadelphia, being in the Senate for almost 12½ years, and serving on the Judiciary Committee—it is not within the appropriate ambit of freedom of speech to allow someone to spend as much money as he or she may have to win a political office.

Freedom of speech is a very highly prized possession in the United States and in the world. It is part of a series of guarantees under the first amendment to the U.S. Constitution. Others are freedom of religion, the right to assemble, and the right to petition the Government. Our powers to speak freely are at the core of our ability to correct injustices and to right wrongs. Freedom of speech is very, very important. From freedom of speech spring many corollary rights.

But why should a rich person have an enormous advantage on becoming a U.S. Senator because that person may spend millions—or whatever it takes—to win a seat in the U.S. Senate? As long as it is possible for someone to come from Wisconsin, the home State of the Presiding Officer, or from South Carolina, the home State of Senator HOLLINGS, or from Pennsylvania, my home State, and enter the race and plunk down $10 million or $12 million or $15 million, or whatever it takes to win a seat in the U.S. Senate.

Why is that related to speech? Speech is the ability to go into shopping centers, go into streets, go into halls, go into meetings, to introduce oneself, talk to people, express ideas, articulate views on how a budget ought to be structured, what we ought to be spending our money on: education, environmental training, job protection, economic development, housing, highways, mass transit—and the projection of the candidacy to persuade people that a given individual is the right person to be a U.S. Senator.

It is a high honor, a very high honor to serve the State of Pennsylvania or any State as a U.S. Senator. In addressing this issue, I know that since we have gone on television, C–SPAN 2—there are people in California where it is 6:21 a.m., and people in Hawaii, where it is 4:21 a.m., maybe some insomniacs are interested in this issue, or they might even be interested in this amendment, who knows—but people are watching this proceeding.

A Senator can come to the floor, and too often we have quorum calls. For those who do not know the intricacies of the Senate, that means that somebody has suggested the absence of a quorum. It is a procedure employed to say we are not ready to transact any further business. When a quorum call is on, any Senator may seek recognition, may ask unanimous consent to proceed, as we call it, "as if in morning business."

I am sure many wonder why we use that phrase. It is a phrase used so that we may introduce a bill or speak about a subject, as the distinguished Senator from Iowa [Mr. GRASSLEY] just did about the editorial from the Des Moines Register.

So coming to the Senate as a Senator is a very high honor and a privilege and an opportunity to really have an effect on public policy in the United States.

But it seems to this Senator that to give special advantage to the wealthy, to someone who can put millions of dollars down, is not an appropriate interpretation of the Constitution of the United States. Charles Evans Hughes, a great Chief Justice of the Supreme Court, said the Constitution is what the Supreme Court says it is. That is the long of it and that is the short of it.

When the Supreme Court of the United States comes to a decision 5 to 4, among the nine Justices, on a hairline judgment, or when the Supreme Court comes to a judgment sometimes without having five Justices in agreement on the approach to the Constitution, and there may be one opinion with three Justices and two others may concur specially, and that establishes the constitutional parameter, that is the law of the land until there is another case which goes before the Supreme Court, and decisions may be reversed.

No one has challenged Buckley versus Valeo, so the appropriate course to take is to bring a constitutional amendment. Senator HOLLINGS and I and others have had problems getting this matter moved through the process, out of committee and onto the Senate

floor. It takes a two-thirds majority from the House and from the Senate, and ratification by three-fourths of the States. So it is a complicated matter.

Senator HOLLINGS and I talked in advance of this bill coming up. We agreed that we would seek an early spot on this bill to have the Senate express its sense. This is not binding. But it is a significant step forward in moving to a constitutional amendment.

When the issue has been raised, Mr. President, to have campaign finance reform, a sticking point has consistently been public financing. Those who have advocated a change in the campaign laws want to have the public pay for elections. The central reason to have the public pay for elections is to set up a mechanism where individual Senators, individual candidates would be unwilling or unable or reluctant or simply will not contest the campaign limits which the legislation would establish.

The procedure goes like this: Campaign finance reform established an amount of money which could be set hypothetically in Pennsylvania. The first campaign finance reform provided for close to $4 million for each candidate in Pennsylvania. Then there have been a variety of provisions to enforce acceptance by saying that if one candidate refused to accept the $4 million and the limit to spend no more than $4 million, then there would be negative consequences. His opponent would get the $4 million that was allocated to him, and there would be other sanctions in order to compel, in effect, a candidate to accept that limitation.

I am very, very much opposed to public financing of campaigns. It is my view that in an era where our deficit is in the range of $4 trillion, and we talk about a projected deficit over the next 5 years for an additional deficit of $1.1 trillion, that is simply unwise, as a matter of public policy, to put any more expenses on the public.

President Clinton has spoken about reducing the deficit by $500 billion, but if you read the fine print and check the tables, you find that it is not true the deficit will be reduced by $500 billion. But what is true is if you take former President Bush's projection over 5 years for a deficit of $1.6 trillion, that is $1,600,000,000,000 and compare that to President Clinton's projection which is $1,157,000,000,000, President Clinton claims to project a deficit reduction of almost $500 billion but only against a projection of $1.6 trillion. When we have these kinds of deficits, it seems to me we ought not to be talking about public financing or adding any further burden on the public.

The issue is one that is especially sensitive to this Senator, because when I decided to stand for election in 1976, I did so in the context of the existing 1974 law, which established a ration for a primary campaign in Pennsylvania where an individual would be limited to spending $35,000. That was about as much money as I had, having devoted most of my life to public service, so I decided to run for election. Right in the middle of the campaign, January 29 of 1976, the Supreme Court came down with the famous decision of Buckley versus Valeo saying that most parts of the act were constitutional but that provision was not constitutional.

I then filed papers for leave to intervene in the case on the ground of personal prejudice, and, in my view, that was an incorrect decision. I applied for leave to intervene and applied for reargument in the case, all of which was denied.

That campaign that I ran in 1976 was against a man later to become a very close colleague of mine in the U.S. Senate, the late Senator John Heinz. When the campaign restrictions were limited, Senator Heinz did, as was appropriate under the law, spent his own funds, and not in a modest manner, and won the election. It was a close 2.6 percent election. The Associated Press, I believe it was, at 1:30 a.m. the day after election day declared me the winner, but when the returns were in from the whole State, Senator Heinz had prevailed by some 26,000 votes out of approximately 1 million votes cast.

It seemed to me since that time that we really ought to go to the core of the problem, and the core is Buckley versus Valeo.

I spoke briefly last night when the issue came to the floor, and the statement is in the CONGRESSIONAL RECORD. I will await the other arguments with interest, but I do urge my colleagues to take a close look at this issue, especially in the context of the sense-of-the Senate resolution. This will give us some direction as to where to go, and I suggest that it will do justice to have an appropriate interpretation of a very important provision of the U.S. Constitution.

I see my colleague from South Carolina has risen, so I yield the floor.

Mr. HOLLINGS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank the distinguished Senator from Pennsylvania. He has been a conscientious leader in this quest to limit campaign spending.

Let's get right to the crux of the corruption. Let's get to the fundamental logical error of the Buckley versus Valeo decision. In this landmark 1976 ruling, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign spending and campaign giving. For first amendment reasons, the Court struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to fathom why that same test—"the governmental interest in preventing corruption and the appearance of corruption"—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far greater error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by Buckley versus Valeo.

If there has ever been a distortion and a twist and an upside down amending of the Constitution by way of a Supreme Court decision, Buckley versus Valeo is it. There is not any question. Opponents of my measure will argue that we must not meddle with the Constitution. Yet, the fact is of the last five amendments, four of the five dealt with elections. And then opponents say, well, amending the Constitution is too long a process. Yet the average of four of those five is 17 months. Meanwhile, by failing to take the constitutional amendment route, we have been on this particular subject fruitlessly for over 20 years, like a dog chasing its tail. And the so-called legislative remedies get more and more complex, more and more expensive, more and more partisan.

I have never seen such nonsense as some of the amendments and maneuvers surrounding this underlying bill, and worst of all is the attempt to coerce candidates into allegedly voluntarily accepting spending limits. Everyone knows what we are doing is unconstitutional. But we pat ourselves on the back, saying we have the best of intentions, we are good boys and girls, we are against corruption. We are for limits. We are working hard. Yet, all along, we know this bill is not going anywhere, and even if it is passed, much of it will be found unconstitutional.

And then we say, why does not the President get to work. Well, why does not the Congress get to work? We should long since have passed the reconciliation bill. That was my contention at the very early day of this particular session. Pass that reconciliation first thing. Put the horse before the cart rather than the stimulus bill before the reconciliation, and we would have passed both with little problem.

What we need is leadership. Instead we have wandered into this self-flagellation, implying that everybody is corrupt. The lobbyists are corrupt. Public financing is corrupt. PAC's, political action committees, everybody is corrupt but us, and we want you to know we are good boys and girls. Nonsense.

Back in 1974, when we passed the bipartisan Federal election campaign amendments, we directly addressed the problem of excessive spending. We put reasonable spending limits on Federal campaigns. The idea was to get at the alligators, the abuses, by draining the swamp.

You have to recall the rampant abuses of the time, with huge amounts of money sloshing around. When Nixon was running in 1968, his money men put the squeeze on textile executives in my State. Each one was told to cough up $35,000. They were told by a campaign official in Washington that their fair share was $35,000 each and that 10 of them were to raise $350,000. And I said, heck, I have been Speaker pro tempore in the legislature, Lieutenant Governor, Governor, been working with that textile crowd 20 some years myself, and they never had given $350,000 to me, much less somebody in Washington.

But they did it. And others were told equally clearly what they had to pay up. Some were told that payments due from the Government would not be made until they came up with campaign money. And later the orchestrators of this extortion racket got involved in a plea for a misdemeanor. That crowd had put on the full court press to buy the office of the Presidency.

After President Nixon got in office, his Secretary of the Treasury, John Connally said, now, Mr. President, we raised all of this money but you have not even thanked them, and most of them you have not even met. They would like to shake your hand. They would like to at least say they met you. So Nixon said, well, that is a good idea, and so Connally said come down to my ranch in Texas; we will have a barbecue and you can meet these folks and thank them. And to draw attention to this outrage, the prankster from the Kennedy crowd, a fellow named Dick Tuck, he put a Brinks armored car right out at the entrance to the Connally ranch. The media covered the story, and talked about how they were buying and selling the Presidency.

We were all embarrassed. Republicans were embarrassed; Democrats were embarrassed. Back then, we had a conscience around here, not a bunch of pollsters. And we said, look, we are really going to have to limit spending. So we got together and both sides fashioned the Federal Election Campaign Amendments Act of 1974.

It was very clear-cut, not complex. For starters, we said, no cash. I never will forget the stories of Bobby Baker under the Democratic administration supposedly running around this place collecting and distributing cash. So we said it was a crime to take cash. And, of course, no corporate contributions. We also said that contributions were going to be limited, $1,000 per individual and $5,000 for a political action committee.

Now, that was a very conservative restriction on campaign contributions, given the environment of $2 million contributors out of Chicago, $500,000 contributors out of my own State to the Nixon campaign. We limited individuals to $1,000. And we limited political action committees to $5,000. Moreover, every dollar contributed was going to appear on top of the table, open to public scrutiny in your records. Every dollar spent was going to appear on top of the table in your records. You were required to file those records with the Secretary of the Senate, and in your own home State with the Secretary of State so they would be available.

So we attempted with that very simple measure to clean up politics, especially the abuse of the large contributor. We were going to limit the buying of public office.

The distinguished Senator from New York, Jim Buckley—and I say this with affection because I had received contributions from his father, William F. Buckley, Sr., in my campaign for governor of South Carolina. William, Senior was a winter resident of Camden, SC. Jim said, oh, no, by limiting how much of my personal wealth I can spend in my own campaign, you are trying to limit my speech, and I am going to prove it. And he sued the Secretary of the Senate, Frank Valeo, in the case of Buckley versus Valeo, and in a 5-to-4 distorted, split decision the Court equated political speech with money. But the real perversion in that decision was that the court limited those who gave money and let run free those who spent it—the exact opposite of the intent of the 1974 Federal election campaign amendments.

That act did not worry about contributors. The contributor's name—and this goes right to the heart of the Buckley versus Valeo decision about corruption, or the appearance of corruption in contributing—the contributor's name was open to the public and on the public record. You could see it. If you received all of your money from textiles, one could argue that the textile industry bought the fellow, or the oil industry bought the fellow, or PAC's, if PAC's are corrupt. And I am absolutely positive they are not. As an old JC, I remember our emphasis on encouraging citizens to participate.

"Politics is the practical art of self-government." said Elihu Root. "And someone must attend to it if we are going to have self-government." And Root went on speaking and finally concluded with a very cogent observation that: "The principal grounds for reproach against any American citizen should be that he is not a politician."

In participatory democracy and America itself every citizen counts. You can count in a negative way by not participating. You can count in a positive way by participating. Through the vehicle of PAC's, doctors, lawyers, nurses, teachers, and labor folks, what have you, can get together, pool their modest contributions and have a voice.

It is unfair to now turn against PAC's and label them negatively as special interests. They are interests. They are especially interested, especially committed. That is the premise for their coordination and thereby for their contribution, to be sure their particular interests are represented. I have been in the game 40 years. No one has ever said a special interest bought me. That would be just out of the whole cloth. If there is any evidence of your being bought, you are through, I can tell you that.

Incumbency. In this morning's Post, we had to read another article about incumbency and term limitation. If we can just get term limitations on these editorialists, we can get cleaned up in this town.

I listened to the Senator from Iowa chastise the President. Oh, how rambunctious they are. They pretend to want the President to succeed. But they point out he got an expensive haircut. And he did this and he did that. So they keep up this nagging drumbeat to tear down the Presidency, when that is the crowd on the other side of the aisle that raises taxes $1 billion a day.

One billion dollars a day for interest costs on the national debt, which are a hidden tax that cannot be repealed. You can repeal catastrophic health insurance taxes, as we did. We can repeal luxury boat taxes. But you cannot repeal interest cost taxes. You have to pay it. That is the dilemma we are in. That is why the debt will go up another $1 trillion, even while we carry through with the President's program, because his 2 predecessors quadrupled the national debt during the past 12 years. So it is galling to hear Senators on the other side of the aisle claim that the difference in philosophy between the two parties is that they want to pay the bill. Good, golly, Moses. They have wrecked the Government and the economy, and now they pose as fiscal conservatives.

One editorial this morning said that we are for campaign finance reform because we are against term limits. I am against term limitations, period. We already have term limitations. That is why we printed the Constitution in the CONGRESSIONAL RECORD yesterday. The Constitution clearly provides for term limits of six years in the Senate, 2 years in the House.

I have been reelected six times. Each time you have to answer to your people. I can tell you incumbency is no advantage. Right now we know that 10 Senators who were here last year are not here this year. And the biggest issue I had against my particular can-

didacy in the 1992 campaign was incumbency. People said it was so fouled up in Washington, they didn't want to hear from me; we have heard enough of you; forget your record; you are just an incumbent; get rid of you.

Mr. President, the Buckley versus Valeo decision, was a violation of the first amendment. This Constitutional amendment will undo the damage by stating that the Congress is hereby empowered to control expenditures in Federal elections, and States are hereby empowered to control expenditures in State elections. This simple amendment restores the violated freedom of speech in Buckley versus Valeo. The Supreme Court, by a 1-vote margin, amended the Constitution. They are the ones who violated the Constitution by saying money is speech in politics. Those who give money can be limited. Those who have money can spend in unlimited amounts. If you have the money, you have effective freedom of speech. If you do not have the money, you have the freedom to shut up.

That is why we are in this dilemma of coercing people to accept spending limits while pretending it is voluntary. That is why some want public financing. I oppose both, and both are headed for an unconstitutional finding.

So the only way that we can get to the root problem is by a constitutional amendment. In a bipartisan fashion Senators of goodwill on both sides have supported this constitutional amendment for the past 7 years. We could not amend S. 3 with a joint resolution. The bill after three readings of the House and Senate goes to the President for approval; the joint resolution, three readings in the House and Senate, goes to the States for their approval. So this underlying bill is not amendable with a joint resolution. That is why we have opted for this vehicle of a sense of the Senate resolution.

I really do not like these sense-of-the-Senate resolutions. They are like that constitutional amendment to balance the budget. They are ineffectual. They are like a football team running up in the grandstand, shouting "We want a touchdown." If they are serious, they should get back down on the field and score the touchdown. Likewise, if we want a balanced budget, then let's balance the budget. Put something in that is real.

That is why I am pushing for this direct solution to the problem. It would put an end to 20 fruitless years of debate on this subject.

So this sense of the Senate resolution is designed to get the attention of our colleagues, to point the way out. Let us get constitutional authority so the Congress can control the expenditures. And we have good scholarly support for this approach, beginning with the Commission on the Constitution headed by Mr. Lloyd Cutler and others. The distinguished Senator from Kansas has been on that particular commission.

Bear in mind, four of the last five amendments to the Constitution had to do with elections. And nothing is more important, because it is runaway spending that has really corrupted us. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.1 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, $3.3 million in 1990, $3.5 million in 1992, and up, up, and away. Overall spending in Congressional races increased from $403 million in 1990 to $522 million in 1992—more than a 20 percent increase in 2 years' time.

This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

This last election year, $3.5 million was the average cost of a winning Senate campaign. You would have to raise $11,000 a week, or much more if you are from a populous State like New York or California. When you see the Senator from New York, ask him if he has raised his $36,000 this week. If he has not, he is going to be out of business. He has to raise it every week in order to stay in the race. That is not what Government is all about. It easily can be repaired. What I envision is exactly what we achieved in 1974, to have the limitation of so much per voter in each particular State.

Under those 1974 guidelines, Senator Thurmond and I could run on slightly more than $600,000. I think California would be $4 million. Maybe we can go somewhat higher. California might go up to $7 million.

This proposed constitutional amendment would enhance freedom of speech. Incidentally, the States came to us early on, and they wanted to be added to the amendment. They are having the same problems at every level. The States would like to have the authority, constitutionally, to control spending and thereby restore an equal freedom of speech to everybody.

It can easily be done in a very fair, reasonable, bipartisan manner, as we showed in the act of 1974. Republicans overwhelmingly supported it. Democrats overwhelmingly supported it. Now we are in this standoff, perhaps even a filibuster. This simply shows how far afield we have strayed.

I yield the floor.

APPOINTMENTS BY THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the majority leader, pursuant to Public Law 103–13, announces the appointment, effective May 24, 1993, of the following individuals to serve on the National Commission to Ensure a Strong Competitive Airline Industry:

As voting members: Charles "Chip" M. Barclay; Robert F. Daniell; and Felix Rohatyn.

As nonvoting members: The Senator from South Carolina [Mr. HOLLINGS];

The Senator from Nebraska [Mr. EXON]; and

The Senator from Washington [Mrs. MURRAY].

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. KERREY. Mr. President, I ask unanimous consent that a congressional fellow, Karen Davenport, be allowed to remain on the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, recently, I introduced Senate Joint Resolution 96, a joint resolution proposing a constitutional amendment to limit campaign expenditures.

This is now the fourth consecutive Congress in which I have introduced my proposal.

Unfortunately, campaign costs continue to explode, and the demands those costs place on individual candidates contribute to the mounting criticism we are hearing from our constituents. In my view, it does not have to be this way. Lowering the overall costs of campaigns, reducing the need for astronomical war chests, and shortening campaigns can and should be done.

Mr. President, as you know, Congress made a good faith effort to address the campaign finance problem nearly 20 years ago, by passing the Federal Election Campaign Act of 1974. We attempted to establish limits on campaign contributions and expenditures and to require certain disclosures. These limitations, along with other regulations provided in that law, we believed, would protect against corruption and restore equity to the political process.

Some of these limitations, however, were held to be unconstitutional by the Supreme Court in Buckley versus Valeo.

While the Court upheld the contribution and disclosure provisions as permissible incursions on first amendment rights on the grounds that such provisions protected against corruption and the appearance of corruption in the political process, it struck down the expenditure limitations.

Congress' stated intention to protect against corruption or the appearance of corruption was found to be insufficient to justify such direct limitations on political expression. Likewise, the Court's analysis specifically rejected as insufficient any congressional purpose to equalize political opportunity or to curb escalating campaign costs.

While Congress remains free to limit campaign contributions, we cannot, under Buckley, limit the amount of personal money that a candidate, wealthy or otherwise, spends on his or her campaign. The Court determined that to do so would be unconstitutional, striking at the first amendment's guarantee of freedom of speech. The same logic dictated that individuals independent of a candidate also have a constitutional right to spend any amount of money to support or criticize the candidate or party of their choice.

The effect of the decision was to exacerbate the difference between the wealthy and not so wealthy that Congress wished to eliminate.

Consequently, the present system makes it relatively difficult for a candidate of average means, who has to run a campaign on statutorily limited contributions, to compete with a wealthy candidate, who need not rely on contributions at all.

But perhaps the most nettlesome component of the Court's Buckley ruling, at least to this Senator, is the connection many have made between spending limits and taxpayer financing.

I find it difficult to comprehend how Congress can seriously consider spending taxpayer money on a reform measure which, even if it were to work as promised, would not fix the problem.

It is clear that a voluntary spending-limit approach could not affect constitutional rights of wealthy candidates and independent parties to spend without limitation. Why would a wealthy candidate agree to abide by prearranged spending limits when he or she can otherwise outspend the less fortunate candidate? A constitutional amendment will allow Congress to skip the carrot of public funding, which would save money and avoid antagonizing the taxpayer, and it would work.

Proponents of public financing often argue that the cost to the taxpayer is well worth it. In making this claim proponents tend to overlook certain points: First, they tend to exaggerate the corruption in our system. They hypothesize corruption by identifying Government programs that benefit someone else. They believe that they themselves have no special interests and that whatever benefit is given to someone else in society must be the result of some unfairness.

Second, the public financing proposal, as stated before, cannot solve the problem of the wealthy candidate spending his own resources and the problem of independent expenditures.

Third, the general public dislikes having taxpayer funds flowing to candidates to whom they would otherwise never contribute. I suspect many find it hard enough to give to candidates they favor, let alone to those they dislike.

Fourth, the general public does not believe that incumbents deserve another perk, the equivalent of food stamps for politicians. They believe the costs of running for Congress are too high and should not be further increased.

Fifth, whatever the current cost estimates there are today, they are too low.

I have never seen a Government program whose initial cost estimates weren't too low. Here, the object of proponents is to establish a public financing beachhead and then, having established that, advance over time to full public financing. Many of the proponents do not espouse public financing to achieve an end, such as expenditure limits, but as an end it itself, to eliminate all private contributions from the system. Once established, public financing is sure to grow.

In contrast, a constitutional amendment would accomplish everything that the public financing proposal could and more, but without, of course, cost to the taxpayer.

Since the ratification of the Constitution and the Bill or Rights, we have regularly had to adopt constitutional amendments to overturn Supreme Court decisions thought to be bad public policy. Indeed, 8 of the 17 amendments ratified since the Bill of Rights were in response to Supreme Court decisions thought to be bad policy.

Of course, not every issue is of such importance to merit a constitutional amendment. But campaign financing, I submit, easily meets that threshold. It is not ephemeral. It is a matter of electoral integrity. And while Congress has a continuing responsibility to protect free speech, it must also remain faithful to its obligation to protect the integrity of the electoral system.

Mr. President, while there are some technical differences between the Hollings proposal and my proposal, we are in fundamental agreement that the impediments of Buckley versus Valeo must be set aside.

It is my hope that those interested in campaign finance reform will overcome the ill-founded notion that one must choose between constitutional and statutory reform proposals.

I find some irony in the fact that we in Congress debate campaign reform without end, yet proponents of reform oppose constitutional amendments because they take too long to put in place. It has been 6 years since I first introduced this proposal. That first proposal could easily have been ratified by now. If proponents of reform would also become proponents of a constitutional amendment, this sea change would allow Congress to act expeditiously.

In the final analysis, if we do not adopt a constitutional amendment, we will be left to suffer the problem with statutory solutions that are not fully satisfactory. We will be left to try to get candidates to waive their rights to unlimited spending in return for public funding. Mr. President, I believe that the only true reform can be found in a constitutional amendment, and I urge my colleagues to support the Hollings amendment to S. 3.

I yield the floor.

The PRESIDING OFFICER (Mrs. MURRAY). The Chair recognizes the Senator from Nebraska.

Mr. KERREY. Madam President, I thank the Chair.

I ask unanimous consent to speak for 20 minutes as if in morning business.

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

HEALTH CARE TRUST FUND

Mr. KERREY. Madam President, the subject that I am speaking on today is a health care trust fund proposal that I have been discussing with a number of my colleagues, particularly members of the Finance Committee, as well as the Budget Committee.

It is an idea of importance as we prepare to debate the reconciliation bill that is likely to be before us after we return from the Memorial Day recess. It is a proposal that does deal with health care, but deals with health care honestly—what we are currently spending—and provides an opportunity for significant deficit reduction inside the reconciliation effort in a fashion I find more acceptable, frankly, than the entitlement costs. I would like to talk about it today.

One of the things I notice about the health care debate is we all pretty much figured out what it takes to get the audience to give us a round of applause. Applause lines are 10 or 12 seconds long. We give a preliminary one-sentence statement and rise with the second statement. The audience gets to its feet and you get a round of applause. If we do that 10 or 15 times, the audience figures we are with them. We do not necessarily have to say anything or, indeed, have to give them any information about where we stand; nor do we have to give them any information about what we are currently doing. We merely have to give them a sense that we are as outraged as they about some particular aspect of our health care system, which is relatively easy to do. We can find all sorts of things wrong with the existing system and point those out. The audience gets excited along with us, and they hopefully will give us their votes.

What I have come here today to describe as a preliminary to this health care trust fund idea is where we currently are, just some facts about our current health care system and some truth about our current health care system that I think is important.

It is difficult sometimes. I must say, I am reminded as I look at these numbers of the cynic—in fact, the misanthrope—Ambrose Bierce, who once said, "Love is a temporary illness curable by marriage."

Health care rhetoric is a temporary illness curable by the truth, very often. The truth is that currently, in this fiscal year, the fiscal year ending September 30, we will collect and spend approximately $284 billion for health care. Lots of people come up and say they do not want a big Government institution for health care. We hear lots of so-called free marketers, in particular, come and say that. They have a difficult time when presented with the fact we are spending $284 billion today in programs like Medicare, Medicaid, the VA, defense health programs, all the Public Health Service expenditures, the National Institutes of Health, and the Federal employee health benefit program.

It is over 30 percent of our national health expenditures. Of all health expenditures in the Nation today, the Federal Government is picking up 30 percent of the tab. You can open a nonprofit hospital anywhere in America and the Government will subsidize 30 percent of the revenue. The Federal Government will provide 30 percent of the revenue.

When the opportunity comes and we are out in the marketplace, and they say that they want to continue doing what we are doing, make sure to point out this: 40 percent of the income comes from the Federal Government, and another 40 percent, as I will show later, comes from subsidies that occur as a consequence of being able to get a tax deduction for purchasing health insurance in the first place. State and local spending increases the public funding total to over 40 percent. As can be seen here, $223 billion is in Federal spending. The State and local spending is $100 billion, leaving $234 billion of private insurance and about $146 billion left for out-of-pocket.

Clearly, public spending on health care right now is extremely large. The largest piece of all health care spending is public spending. It is large, and it is growing very rapidly.

I must say, one of the most alarming numbers inside our budget is that we are currently spending in this fiscal year $250 billion for Medicare and Medicaid. That number will be $400 billion in approximately 4½ or 5 years. It is clearly an unsustainable growth in expenditures, and something needs to occur about it. But regrettably, we have no discipline in our system. This health care trust fund I am proposing creates that kind of discipline.

I would like, from here, to talk a little bit about how the money itself is distributed and to talk about where the Federal Government gets its money. We have $300 billion in spending. But where do we get that $100 billion? Are we asking the American people to pay for it? Are we saying, "Folks, I am giving you $100 billion worth of health care; make sure I collect $300 billion to pay for it"?

One of the things that I very often find people discovering is they are surprised to learn where we get the money for that $300 billion.

Thirty-two percent of our funding for health care comes from payroll taxes. That is where we collect the money. A lot of people are surprised to know that that amount of money is being collected from people who are in the work force right now. There are approximately 94 million workers out there, paying 3 percent of the payroll: 1.45 percent, employee; 1.45 percent, employer. Three percent of the payroll. That is about 2 percent—general revenues are about 50 percent—for those who mail a check into the Federal Government on the 15th of April.

One thing I regret, being in Senate. I miss my friends with whom I used to gather on the 15th of April. We were last-minute filers, and at 11:30 at night, we would show up at the post office and send the check in to Washington.

The folks sending the check in to Washington need to understand that a big piece—my guess is about 40 percent—of the current Federal income taxes are being used to fund health care. That is all good, insofar as it goes.

The bad news, I have to say to the folks in America receiving health care benefits—and everybody does—from the Federal Government, 13 percent of that is borrowed money. I am talking about T-bills and bonds, as the distinguished Senator from South Carolina knows, who spoke earlier about the deficit and has previously. We are borrowing 13 percent.

To everybody out there in America who says, "I do not want a big bailout of health care," and, "Gee, I do not want to do anything irresponsible," understand, we are paying for 13 percent of our health care bills with T-bills and bonds.

Maybe you can make a case to do that if you are building a road; maybe if you are building a sewer system or a water system; if you are doing something that your kids are going to have an opportunity to use. But I have difficulty making the case that my 18-year-old and 16-year-old should pay interest on bonds that I sell this year to pay doctor and hospital bills.

It is difficult for me to make that case. Perhaps other colleagues can. Perhaps American taxpayers can make that case. I have a difficult time doing that.

I say all this because often one of the things you hear is people get up to say, "We want the marketplace to take care of health care." I tell you, we have a lot of undoing to do if that is what you want; if you want the market forces to run health care, eliminate the tax deduction, and end the Federal Government subsidies.

I think all this conversation about market forces is all well and good, as far as it goes. But we do not have much of a market in health care anymore.

I would like to show specifically what is happening over the last 30 or 40 years with our health care system.

Madam President, I was 7 years old in 1950. I do not remember this particular situation, but in 1950, 65 percent of all health care expenditures were paid out of pocket—out of pocket, Madam President. That number has steadily gone down to approximately 20 percent in 1992.

On the other hand, Madam President, the third-party payers—that is insurance companies and Government payments—have gone from about 30 percent to over 70 percent. We have gone from a point where indeed we had a market in operation; we have gone from a point where we intervened in that marketplace with tax deductions, direct tax subsidies, and, as a consequence, over the last 4 years we now have third parties paying over 70 percent of the bills.

It leaves us, Madam President, with a rather remarkable situation. Most of us do not really know what the costs are.

In fact, I would ask my colleagues—sort of a little test here. I discovered this because one of my legislative assistants who does have health care is on maternity leave right now. So I asked her what the baby cost. She was in the hospital for 2 days here in the Washington, DC, area. It cost her $7,000 for 2 days of hospitalization, about $3,000 for the doctor, and she has not even received the bill yet for the anesthesiologist.

We all have different experiences with our health care systems, but most of us have been born in a hospital—some have not—and all of us have had some experience, I believe, with delivering a baby. Most of us are at an age where we probably are not aware of what occurred in just that one cost.

I will say to you, one thing I discovered is I could not actually get a price, except from my staff person, who was able to tell me. It is difficult to call a hospital and say, "What do you charge for a baby, normal delivery?"

"Well, we have privacy problems; we really cannot provide you with that information," you might be told. All I was able to get was a median average. The median increase for the cost of delivering a baby from 1958, when it cost

you a bag of cash of about $829—that is just for the doctor—has gone to $1,700 in 1991.

I point this out, Madam President, because I believe we have seen that kind of escalation across the board and we have seen that kind of escalation going on outside of our view. We just are not a part of it. We are not sensitive to what those costs are until it hits us as an uninsured person or it hits us as a young couple trying to figure out whether or not they can, in fact, afford to even have a baby.

We have seen technological changes. We have seen changes in practices. All of us have seen it. We have seen, I think, substantial improvement in the quality of our care.

Madam President, one of the truths is, again, we have to say to the American people that one of the reasons our costs have gone up is we have been protected from it.

All the politicians—and I have done a little of it myself—come and say, "Gee, the problem is our hospitals are ripping you off, the problem is doctors are ripping you off, insurance companies are ripping you off." The truth of the matter is, we have a lot of waste, fraud, and abuse in our system.

One of the biggest reasons we see costs going up is it does not matter. I would not want to take a test right now, or have 535 Members of Congress take a test and ask: What is your deductible and copayment? What does the Federal Employee Health Benefit Program provide you as an individual?

I suspect you would be lucky to get 20 percent of the 535 people up here on the Hill that would be able to tell you. I certainly would not be in that 20 percent. Because the fact of the matter is, it does not matter. Somebody else is picking up the tab. Why should I worry about it?

We need a mechanism that brings us face to face with the truth. And this unitarian Federal trust fund that I am going to try to get a part of the reconciliation does that. It says that, first of all, we will account for every single expenditure in a single fund. That is No. 1.

No. 2, we will declare as citizens of this great Nation—it is still a high honor to be a citizen of this country—we will say we have a responsibility to pay the bills. A fairly simple thing, it seems to me. We are going to say, if we ask our politicians for 284 or 300 billion dollars' worth of spending, we will pay the bills and we will designate whatever taxes we decide to use to make sure that, in fact, the money is contributed for the bills.

That designation in the tax revenue forces us, No. 3, to have the kind of discipline that is needed. Frankly, what we find is that the projected growth of health care expenditures are going up so rapidly that right now we are relieved of the requirement to make difficult decisions.

I have, in my own proposal, said, OK, let us take the 3-percent payroll tax, the Federal health insurance premium we are currently paying, let us get the alcohol taxes, the cigarette taxes, designate 27 percent of the income taxes, corporate taxes—none of these are new taxes; that is the current taxes in the current system.

You designate those taxes and you match them up against where we are spending.

Well, this chart here shows where all Federal spending on health care is projected to go. In 1993, 1994, 1995, 1996, 1997, 1998, not very far into the future, we are going from about $280 billion to nearly $500 billion in a 5-year period of time, with no restraint, no requirement for fiscal discipline. The trust fund provides us with that constraint.

This is the shortfall. This is where the deficit reduction begins to occur, because we are required to fully fund. Unless we have a trust fund, this is the kind of gap that we have between the revenue that would be generated if we designated existing taxes. That is the kind of gap that is going to occur, because health care is growing more rapidly than our income. Everybody knows that.

One of the things that happened in the 1980's, as health care costs went up, disposable income has gotten squeezed. In fact, jobs have been destroyed; not just salaries have gone down, but jobs have been destroyed as well.

There are three things that occur with this kind of trust fund. First, as I said, we present an honest bill to the American people. Second, we get into an honest debate about which taxes we ought to use.

I am an advocate, myself, of using a progressive consumption tax to replace the income tax as a powerful second part of a new American safety net. I think Americans need to know health care is there.

I believe we need a second piece, which is a powerful incentive for individuals to save. But at an interim stage, at the very least, we could bring on what the Senator from South Carolina is talking about this year, a value-added tax, not just to pay for any spending but to get the tax down on payroll. It is too high right now.

People who get paid by the hour today, if you are an American out there watching this—you are probably not watching this, because you are working—but if you are in the work force today getting paid by the hour, you are holding about $70 million of excess deficit reduction because we are overtaxing you on Social Security.

You could do it with a value-added tax, lower the income tax, lower the corporate tax. You could take action that would unquestionably stimulate the American economy, not as new spending, but as a way to reduce existing taxes. I think the value-added or progressive consumption tax, those kinds of ideas are powerful economic ideas and are urgently needed.

Regrettably, the American people—and I think correctly so—have assumed if you bring a new tax into the existing system, the money is going to get spent on all sorts of things, because Congress, by definition, is undisciplined.

The Federal Health Care Trust Fund provides that discipline. It contributes to deficit reduction. It gives the American people an honest assessment of how their money is being spent for health care and requires us to be responsible as adults, as citizens in this country. If you want a benefit, if you want an expenditure, pay for it.

Madam President, I hope in the reconciliation debate we are able to accept this proposal. I think it will contribute to deficit reduction. I think it will enable us to have the kind of debate that I think is going to be necessary to enact comprehensive health care reform.

This is not a substitute for reform. It is a necessary, in my judgment, precursor. Otherwise, what we will hear is everything but the truth when it comes to health care in the United States of America.

Madam President, I thank my distinguished colleague for allowing me to speak in morning business.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Madam President, I ask unanimous consent to proceed as if in morning business.

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

THE BTU TAX

Mr. CRAIG. Madam President, I think all of us here in the Congress, and certainly the American people, have attempted to focus in the last several days on a phenomenally fast and elusive target, and that is the Btu tax as proposed by President Clinton and as articulated by him over the last several months as the pillar of his economic package.

I say that because when it was first proposed, economists around the country said "What? What are you doing, Madam President, for the first time in this Nation's history, attempting to apply a tax in this way on the energy sources of our country that have throughout our time been the great source of our wealth, not only in the abundance of inexpensive energy, but in its ability to create industries that employ people that make us competitive around the world?

He gave all kinds of excuses—that this was the only way out of a deficit, even though he had proposed major

new spending increases, and that, really, this was the kind of revenue raiser that would be necessary if we were going to resolve all of these great problems.

That was some months ago. And, of course, all of us began to look at it and tried to analyze it, as it related to true deficit reduction; but, more important, what kind of impact would it have on the economy? How many people would it put out of work? Because any time you drive up the cost of doing business you drive down the competitiveness of business and, ultimately, you cause those businesses to have to lay off people.

I come from a Western State. It is a lot of miles between Twin Falls, ID and Boise, ID. Yet the commerce, to flow back and forth, flows on rubber tires. Those rubber tires are driven by hydrocarbons—gas; and that gas costs a lot of money. Now this President has proposed it ought to cost more money for the sake of the country.

So we began to analyze, not only to Idaho, but to the Nation, the kind of impact this type of taxation would have on our State. Of course we came up with some fascinating figures. A State of 1,030,000 people would be paying as much as a half billion dollars more in income—or Btu tax to the Federal government, on an annual basis. That is a phenomenal hit.

Some small farmers who are highly specialized and intensified in their businesses, because this tax was spread across fertilizers and fuels and other energy-intensive kinds of products, would be paying anywhere from $10,000 to $15,000 more a year in the costs of production on their particular farm.

Energy-intensive businesses like the aluminum industry, in which a lot of people in the north end of my State are employed, all of a sudden would probably find themselves out of work and that industry would be seeking a new home in British Columbia, in Canada, where there were inexpensive hydroenergy sources.

As all those figures began to hit the scene, and as the American people finally recognized they were going to be hit several hundred dollars a year per household, and that middle-income America somehow became lost in the shuffle, and the campaign promises that our President had made had somehow disappeared, we all know what began to happen to that tax. It became a burden too heavy to bear.

Yet, of course we know in the budget resolution passed by this Congress and by this Senate it was a burden that was locked in because it was a major revenue source for this President's economic program. Was it going to cost 7 to 10 cents a gallon for gasoline and 8 or 9 cents for diesel? Annual costs per family? The President said in February, $204; and then Hazel O'Leary said in March, $322; and Treasury said today about $400; the Carter Energy Secretary, James Schlesinger, said maybe $470 per family. All of these kinds of speculations went on.

McGraw-Hill calculates 400,000 jobs lost; the National Association of Manufacturers, 610,000 jobs lost; American Petroleum Institute, 700,000 jobs lost. All of a sudden this President was in trouble with his economic package because the mainstay, the plank, that which locked it together, all of a sudden did not work or could not work or would not work. Senators on this floor began to stand up and say: Wait a minute, we have better ideas if we are going to have to raise revenue, because this kind of approach simply will put well-too-many people out of work.

This President was elected on a platform of coming to this Nation's Capitol, and putting America back to work with all kinds of inventive, creative new ideas. This one was not too inventive. It was not too creative. And, most assuredly, it was going to put a lot of people out in the cold.

I understand in the House yesterday, and into the wee hours of this morning, people tried to figure a way out of this one. They began to work on it, in the sense they began to cut it back. All of a sudden that aluminum industry that I talked about that is a part of my State's employment base and a part of the Chair's employment base—all of a sudden: Exempt. You do not have to worry about it anymore. We are going to take you out of the picture. All of a sudden certain portions of agriculture: Exempt, taken out of the picture. I understand now, as of last night, certain chemical industries that are exporters, they get a rebate if they export and have to employ this tax.

In other words, this kind of phony economics is in trouble, and it appears that the House is trying to create a whole new image around a very bad idea so, of course, they can get this President's economic package passed.

I am not at all confident you can take a bad idea and turn it into a good idea by a little window dressing; a little flurry around the edges, a little adjustment here, a little kind of political maneuvering to make sure the employees of the Speaker of the House are, all of a sudden, taken care of; that certain dominant areas of our economy are already taken care of. What they have not taken care of is middle-income America, about 74 percent of the American people who are going to be hit right in their pocketbooks by this kind of a tax, because at the very beginning it was a bad idea.

I am not going to argue about deficits. My voting record shows I do not vote for massive new spending programs and I vote to reduce spending anywhere and everywhere I can, because I do believe in limited government and I do not believe that the Government's magic wand creates jobs and builds up economies, as this President and others do. So I would vote against a Btu tax. And I plan to do just that if that kind of program gets to the floor of this Congress, because, no matter how you try to make a bad idea good, in the State of Idaho it damages our economy tremendously as it will in all other working States across this Nation.

I do not want to have to say to certain people in certain households, "Because we are going to make it more costly for you to operate, we are going to give you more food stamps." What a humiliation. Or, "We are going to provide other kinds of spending programs in this Government to cover up for a bad idea, as it came along." That is what is going on in the House today.

I hope Republicans and Democrats alike, in a bipartisan way, recognize, as many of them already have, that no matter how much you try to change, no matter how much you burn the midnight oil, bad ideas do not become good ideas overnight. They were bad going in, and they will be bad coming out. I wish this President would simply go back to the drawing board, recognize there are other ways to get at revenue.

But, before he talks revenue, I think the American people are beginning to show him a little by the way they are demonstrating their disfavor in the polls: Madam President, revenues are not the issue. Spending is the issue. Get off the Btu tax kick, get on with the business of reducing the growth of Government, and all of a sudden I think you will find your popularity in the polls takes a dramatic turn for the good.

I yield the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. MCCONNELL. Madam President, I rise in opposition to the Hollings-Specter sense-of-the-Senate resolution that the Congress should pass a constitutional amendment to revise the first amendment part of our Bill of Rights for the first time in 200 years. I understand the frustration of my good friend from South Carolina. He philosophically supports spending limits. He has said very eloquently, and correctly, that the underlying bill before us is clearly unconstitutional. The bill could be made constitutional. The bill before us could be made constitutional by making it truly voluntary and by providing adequate public funding so that candidates would elect to limit their speech in return for a public subsidy.

But the Senator from South Carolina is absolutely on the mark and correct

that the bill we are considering does not have a chance in the courts.

But the issue before us that is presented by the Senator from South Carolina is the question of whether we should, for the first time in the 200-year history of our country, amend the first amendment. I would say, Madam President, there is not much of a constituency for that. Even the advocates of the underlying bill, such as the Washington Post, oppose a first amendment amendment, if you will, which is what this sense-of-the-Senate calls upon us to enact.

The Washington Post, in an editorial of April 6, 1988, in connection with an earlier effort by Senator HOLLINGS to amend the Constitution, came out in opposition saying, in effect, it is a bad idea after 200 years to be messing around with the first amendment.

I ask unanimous consent that the Washington Post editorial, in opposition to amending the first amendment, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 6, 1993]

CAMPAIGN SPINACH

Sen. Ernest Hollings was not an admirer of S. 2, the sturdy bill his fellow Democrats tried to pass to limit congressional campaign spending by setting up a system of partial public finance. He agreed to vote for cloture, to break a Republican filibuster only after Majority Leader Robert Byrd agreed to bring up a Hollings constitutional amendment if cloture failed. Mr. Byrd, having lost on S. 2, is now about to do that.

Right now Congress can't just limit spending and be done with it; the Supreme Court says such legislation would violate the First Amendment. Limits can only be imposed indirectly—for example, as a condition for receipt of public campaign funds. The Hollings amendment would cut through this thick spinach by authorizing Congress to impose limits straightaway. The limits are enticing, but the constitutional amendment is a bad idea. It would be an exception to the free speech clause, and once that clause is breached for one purpose, who is to say how many others may follow? As the American Civil Liberties Union observed in opposing the measure, about the last thing the country needs is "a second First Amendment."

The free speech issues arises in almost any effort to regulate campaigns, the fundamental area of free expression on which all others depend. There has long been the feeling in and out of Congress—which we emphatically share—that congressional campaign spending is out of hand. Congress tried in one of the Watergate reforms to limit both the giving and the spending of campaign funds. The Supreme Court in its *Buckley* v. *Valeo* decision in 1976 drew a rather strained distinction between these two sides of the campaign ledger. In a decision that let it keep a foot in both camps—civil liberties and reform—it said Congress could limit giving but not spending (except in the context of a system of public finance). In the first case the court found that "the governmental interest in preventing corruption and the appearance of corruption" outweighed the free speech considerations, while in the second case it did not.

Mr. Hollings would simplify the matter, but at considerable cost. His amendment said, in a recent formulation: "The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal offices." But that's much too vague, and so are rival amendments that have been proposed. Ask yourself what expenditures of a certain kind in an election year are *not* "intended to affect" the outcome? At a certain point in the process, just about any public utterance is.

Nor would the Hollings amendment be a *political* solution to the problem. Congress would still have to vote the limits, and that is what the Senate balked at this time around.

As *Buckley* v. *Valeo* demonstrates, that is a messy area of law. The competing values are important; they require a balancing act. The Hollings amendment, in trying instead to brush the problem aside, is less a solution than a dangerous show. The Senate should vote it down.

Mr. MCCONNELL. Madam President, in addition to that, interestingly enough, the principal outside group lobbying for the underlying bill, Common Cause, opposes amending the Constitution. Common Cause, in a letter of March 23, 1988, sent to all the Members of the Senate at that time, pointed out that it was a bad idea to amend the Constitution to bring about a result presumably that Common Cause would very much like to see.

I ask unanimous consent that the Common Cause letter, opposing a constitutional amendment, be printed in the RECORD.

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

COMMON CAUSE,
Washington, DC, March 23, 1988.

DEAR SENATOR: The Senate is expected to consider shortly S.J. Res. 21, a proposed amendment to the Constitution to give Congress the power to enact mandatory limits on expenditures in campaigns. Common Cause urges you not to support S.J. Res. 21.

The fundamental problems caused by the massive growth in spending for congressional elections and by special interest PAC giving demand effective and expeditious solution. The Senate recently came within a handful of votes of achieving this goal. For the first time since the Watergate period, a majority of Senators went on record in support of comprehensive campaign finance reform legislation, including a system of spending limits for Senate races. It took an obstructionist filibuster by a minority of Senators to block the bill from going forward.

The Senate now stands within striking distance of enacting comprehensive legislation to deal with the urgent problems that confront the congressional campaign finance system. The Senate should not walk away from or delay this effort. But that is what will happen if the Senate chooses to pursue a constitutional amendment, an inherently lengthy and time-consuming process.

S.J. Res. 21, the proposed constitutional amendment, would not establish expenditure limits in campaigns; it would only empower the Congress to do so. Thus even if two-thirds of the Senate and the House should pass S.J. Res. 21 and three-quarters of the states were to ratify the amendment, it would then *still be necessary* for the Senate and the House to pass legislation to establish spending limits in congressional campaigns.

Yet it is this very issue of whether there should be spending limits in congressional campaigns that has been at the heart of the recent legislative battle in the Senate. Opponents of S. 2, the Senatorial Election Campaign Act, made very clear that their principal objection was the establishment of any spending limits in campaigns.

So even assuming a constitutional amendment were to be ratified, after years of delay the Senate would find itself right back where it is today—in a battle over whether there should be spending limits in congressional campaigns. In the interim, it is almost certain that nothing would have been done to deal with the scandalous congressional campaign finance system.

There are other serious questions that need to be considered and addressed by anyone who is presently considering supporting S.J. Res. 21.

For example, what are the implications if S.J. Res. 21 takes away from the federal courts any ability to determine that particular expenditure limits enacted by Congress discriminate against or otherwise violate the constitutional rights of challengers?

What are the implications, if any, of narrowing by constitutional amendment the First Amendment rights of individuals as interpreted by the Supreme Court?

We believe that campaign finance reform legislation must continue to be a top priority for the Senate as it has been in the 100th Congress. If legislation is not passed this year, it should be scheduled for early action in the Senate and the House in 1989.

In conclusion, Common Cause strongly urges the Senate to face up to its institutional responsibilities to reform the disgraceful congressional campaign finance system. The Senate should enact comprehensive legislation to establish a system of campaign spending limits and aggregate PAC limits, instead of pursuing a constitutional amendment that will delay solving this fundamental problem for years and then still leave Congress faced with the need to pass legislation to limit campaign spending.

Sincerely,

FRED WERTHEIMER,
President.

Mr. MCCONNELL. Also, Madam President, the American Civil Liberties Union, in a letter of June 4, 1992, also states its opposition to amending the Constitution for the first time in 200 years, no matter what the goal of that amendment.

I would like to read pertinent parts of the ACLU letter. It says:

First, as many Members of the Senate recognized during the debate about the flag-burning amendment proposed a few years ago, it is wrong—

I repeat from the ACLU letter:

it is wrong for the Senate to consider changing the first amendment—

Further in the letter, I think it is worthy of note, Madam President, the ACLU points out:

As an amendment subsequent to the first amendment, the existing understandings about the protections of freedoms of the press would also be changed, thereby empowering Congress to regulate what newspapers and broadcasters can do on behalf of the candidates they endorse or oppose. A candidate-centered editorial, as well as op-ed articles or commentary, are certainly expenditures in support of or in opposition to political

candidates. The amendment, as its words make apparent, would authorize Congress to set reasonable limits on the involvement of the media in campaigns when not strictly reporting the news.

One of the concerns raised by the American Civil Liberties Union in opposition to amending the first amendment for the first time in 200 years.

I ask unanimous consent that the text of that letter be printed in the RECORD.

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

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, June 4, 1992.

DEAR SENATOR: The American Civil Liberties strongly opposes S.J. Res. 35, the proposed constitutional amendment to limit federal campaign expenditures. The proposal would amend the free-speech guarantee of the First Amendment, as interpreted by the Supreme Court, thereby limiting the amount of political speech that may be engaged in by any candidate or by anyone else seeking to be involved in the political process. It is a highly flawed proposal, one that is constitutionally incapable of being fixed, and raises a number of significant issues. It deserves to be rejected by the Senate.

First, as many members of the Senate recognized during the debate about the flag-burning amendment proposed a few years ago, it is wrong for the Senate to consider changing the First Amendment, a provision that is a justifiable source of pride for the United States and much admired throughout the world. If Congress could carve out exceptions to the reach of free speech through constitutional amendment, particularly in the important area of political speech, then none of our liberties and freedoms are safe and proposals to give Congress authority over other forms of speech will abound. Moreover, since the Constitution does not grant freedom of speech to the people, but is a reflection of its Framers' natural-rights philosophy—one that recognizes that these rights inhere in the people and are inalienable—it is unlikely that Congress, even by way of constitutional amendment, has the authority to interfere with or restrict those rights. In other words, S.J. Res. 35 may well be an unconstitutional constitutional proposal.

Second, if the proposed amendment were implemented, it would operate to distort the political process in numerous ways. If implemented evenhandedly, it would operate to the benefit of incumbents who generally have a higher name recognition and thus an ability to do more with lesser funding. And it would operate to the detriment of dark-horse and third-party candidates who start out with fewer contributors and whose only hope of obtaining the visibility necessary to run a serious campaign may come from the backing of a few large contributors or from their own funds. Thus, rather than assure fair and free elections, the proposal would likely operate to the benefit of those in power and to the disadvantage of those challenging the political status quo.

Additionally, the wording of the proposed amendment would actually permit Congress to set a different limit on incumbents versus challengers, wealthy candidates versus those without vast personal funds to mount a campaign, or candidates from underrepresented groups versus those who are well represented, as long as these were justified on a rational basis. The First Amendment properly prevents the government from making these kinds of distinctions, but S.J. Res. 35 would enable Congress to set these limitations notwithstanding currently existing constitutional understandings. The sum of the dangers to the First Amendment are most apparent when S.J. Res. 35 is viewed from that perspective.

Finally, as an amendment subsequent to the First Amendment, the existing understanding about the protections of freedom of the press would also be changed, thereby empowering Congress to regulate what newspapers and broadcasters can do on behalf of the candidates they endorse or oppose. A candidate-centered editorial, as well as op-ed articles or commentary, are certainly expenditures in support of or in opposition to political candidates. The amendment, as its words make apparent, would authorize Congress to set reasonable limits on the involvement of the media in campaigns when not strictly reporting the news. Such a result would be intolerable in a society that cherishes a free press.

Last year, we celebrated the 200th anniversary of the Bill of Rights with speeches, articles, and lessons about the importance of our cherished liberties. This year should not mark the end of that bicentennial legacy by an ill-conceived effort to cut back on freedom of speech and the press. Please reject S.J. Res. 35.

Sincerely,

ROBERT S. PECK,
Legislative Counsel.

Mr. MCCONNELL. Madam President, what I would like to focus the attention of the Senate on is this whole issue of whether or not, for the first time in the history of our country, we ought to amend the first amendment.

We had this issue before us in 1990. And the Senators, still in the Senate, who opposed amending the first amendment were: Senators CHAFEE, DANFORTH, DURENBERGER, JEFFORDS, PACKWOOD, AKAKA, BIDEN, BINGAMAN, BOREN, BRADLEY, BUMPERS, DASCHLE, DODD, GLENN, HARKIN, INOUYE, KENNEDY, KERREY, KERRY, KOHL, LAUTENBERG, LEAHY, LEVIN, LIEBERMAN, METZENBAUM, MIKULSKI, MITCHELL, MOYNIHAN, PELL, PRYOR, RIEGLE, ROBB, SARBANES, SASSER, and SIMON.

The issue before us at that time, Madam President, was whether or not we ought to amend the first amendment to prevent the act of desecrating the flag. It was a very tough vote to cast for those Senators who felt that even when that act, which virtually everybody we all know, including ourselves, found offensive, could have been restricted, those Senators obviously felt that when weighed against the interests of leaving the first amendment intact and untouched clearly that was not the way to go.

Reasonable people can differ, obviously, about the form campaign finance reform should take. I do not know any Senators here who do not think the present system could be improved, but the issue before us with the sense-of-the-Senate resolution of the Senator from South Carolina is whether we ought to amend the Bill of Rights for the first time in 200 years.

Many Senators have spoken eloquently about that issue. In looking back at previous debate, I look with great interest at the observations of the majority leader, Senator MITCHELL, when we were last considering the possibility of amending the Bill of Rights.

Senator MITCHELL said on June 26, 1990—and this was in connection with the flag-burning issue and a court decision much like the Buckley case that many people did not like. Senator MITCHELL said:

So even though I disagree with the Court's ruling—

Referring to the flag burning decision—

I accept it. The question now before us is whether we should override the Supreme Court's decision by amending the Constitution.

The majority leader said at that point:

I do not support changing the Constitution. We can support the American flag without changing the American Constitution.

The first 10 amendments to the Constitution have come to be known as the Bill of Rights. They were adopted as part of the Constitution because the States insisted that before a new and powerful Federal Government could be created, there had to be clear and controlling limits on the power of that Federal Government against individual citizens.

The Bill of Rights secures the liberty of the individual by limiting the power of Government.

Across the whole sweep of human history, there is no better, clearer, more concise, more eloquent or effective statement of the right of citizens to be free of the dictates of Government than the American Bill of Rights.

For 200 years it has protected the liberties of generations of Americans. During that time, the Bill of Rights has never been changed or amended. Not once. Ever. It stands today, word for word, exactly as it did when it was adopted two centuries ago.

Of the 10 amendments which make up the Bill of Rights, none is more important than the first. In this debate, its relevant words are: "Congress shall make no law abridging the freedom of speech."

The English language could not be more clear—

Said the majority leader. Let me repeat those few words—

Congress shall make no law abridging the freedom of speech.

Senator MITCHELL went on:

Never in 200 years has the first amendment been changed or amended. As a result, never in 200 years has Congress been able to make a law abridging the freedom of speech.

Now we are asked to change that, for the first time. We are asked to give Congress and the States the power to do that which, for 200 years, the Bill of Rights has prevented them from doing.

We are asked to permit Congress, or any State, to make a law that would abridge the freedom of speech, as defined by the Supreme Court.

Even though, as I have already said, I disagree with the Court—

Senator MITCHELL referring to the flag-burning decision, others referring

to the Buckley decision, a decision with which they disagree—

I do not believe we should amend the Bill of Rights.

And here is the critical comment from the majority leader:

I do not believe that we should ever, under any circumstances, for any reason, amend the American Bill of Rights.

Senator MITCHELL on June 26, 1990.

He went on:

The Bill of Rights is so effective in protecting individual liberty precisely because of its unchanging nature. Once that is unraveled, its effectiveness will be forever diminished.

If the Constitution is amended to prohibit the burning of a flag, where do we stop?

The supporters of this amendment argue that their goal is so important that it warrants overriding the Court's decision. But the supporters should consider this question before they vote.

* * * The point is that once the Bill of Rights is changed or amended, no line can be drawn. That is why it should not be changed or amended.

We Americans revere the flag. We also revere the Constitution and the Bill of Rights. We need not choose between them.

And Senator MITCHELL proceeded to point out that there are other ways of getting at that.

The principal point is that Senator MITCHELL said the first amendment should not be amended, not now, not ever.

Senator DASCHLE also spoke very eloquently on that issue on June 25, 1990.

Senator DASCHLE said:

I intend to vote against this particular amendment and all other constitutional amendments that would amend what I consider to be the most important clause in the document which makes the United State of America what it is—the free speech clause of the Bill of Rights.

He proceeded the next day to say:

I will vote against any amendment, any amendment of any kind, that would burn the most important clause of the document that makes the United States of America what she is, the free speech clause of the Bill of Rights.

If we tamper with the Bill of Rights on the 200th anniversary of the Constitution we are diminishing every flag in America.

Senator LEAHY on June 25, 1990:

We have gone through 200 years without amending the Bill of Rights. We have gone through two World Wars, a Civil War, several major depressions, the expansion of the West, the addition of States. We have had Presidents who have acceded to office either in the normal electoral fashion, some tragically through death or assassination and one by resignation. And through all of that, with all of these strains on our great Nation, not once did we ever think it was necessary to amend the Bill of Rights.

That was Senator LEAHY on June 25, 1990.

Senator BUMPERS, June 25, 1990:

When Vaclav Havel spoke to a joint session of Congress recently, I have never seen a foreign dignitary received with as much enthusiasm as was he. And what did he say?

"We want something like your Declaration of Independence and your Preamble to the Constitution and your Bill of Rights."

Senator BUMPERS on October 18, 1989:

The Constitution is also the one piece of irrefutable political evidence that says every person counts, that all are equal in the eyes of the law. I hold it second only to the Holy Bible as the most sacred possession in the hands of mankind. For these reasons, any amendments to the Constitution must be examined with the greatest degree of scrutiny.

It is worth repeating now—

Senator BUMPERS said—

that we have only amended the Constitution 16 times since the ratification of the Bill of Rights in 1791—198 years since the first 10 amendments were adopted as the Bill of Rights. In that entire period of time, we have never seen fit to change one "t" or one "i" of those 10 amendments.

Senator KOHL on June 25, 1990:

Today we are considering something far more drastic than a simple statute: We are contemplating carving a slice out of the first amendment. Everyone knows that flag burners are infantile and misguided. Yet altering the Constitution to prohibit flag burning would be just as bad.

Senator KOHL said:

Adopting an asterisk to the Bill of Rights would be unprecedented, unwise, unnecessary, and unfortunate.

Senator GLENN on June 25, 1990:

That commitment to freedom is encapsulated and encoded in our Bill of Rights: Our Bill of Rights, perhaps the most envied and imitated document anywhere in this world. The Bill of Rights is what makes our country unique. It is what made us a shining beacon of hope, liberty, of inspiration to oppressed peoples around the world for over 200 years.

Senator BOREN, June 21, 1990:

We should ask ourselves if 100 years from now we want to be remembered for tampering with the Bill of Rights for the first time in our history.

Senator BOREN went on:

Do we really feel that 200 years of experience under our Bill of Rights should be cast aside in favor of uncertain and dangerous tampering with the language of our Constitution?

Senator METZENBAUM, June 14, 1990:

I am angry that once again we are going to turn the Bill of Rights into a political football. In 200 years, the Bill of Rights has never, never, been curtailed.

Senator METZENBAUM went on:

Once you start fiddling with the Bill of Rights to outlaw offensive expression, where do you stop?

Senator KENNEDY, June 11, 1990:

I intend to do all I can to see that the first amendment stays unamended.

Senator KENNEDY went on:

The words of the first amendment are simple and majestic: "Congress shall make no law * * * abridging freedom of speech." The proposed constitutional amendment would undermine that fundamental liberty. For the first time in our 200-year history, it would create an exception to the freedom of speech our Constitution protects.

Senator MIKULSKI, October 18, 1989:

* * *the sanctity of the Bill of Rights. These first 10 amendments to the Constitution were ratified on December 15, 1791. In the almost 198 years since, our Nation has ratified 16 more amendments and almost every one of those amendments has expanded, not contracted, the Bill of Rights.

Senator JOHN KERRY, June 11, 1990:

I cherish the freedoms that I have in this country. They have given me far more than I could ever give this country in return—the freedom to express myself, the freedom to be what I want to be, the freedom to travel in an almost unlimited way, and acquire whatever skills I have the energy to try to acquire.

The issue is whether or not we can fearlessly hang on to that freedom and encourage human beings to express themselves, to listen to that beating heart inside of them that says to them this is what you ought to do in spite of what the majority says.

Senator BINGAMAN, June 20, 1990:

I cannot support an effort to begin writing exceptions into the first amendment of our Constitution.

Senator BRADLEY, June 20, 1990:

* * *our American flag is best protected by preserving the freedom that is symbolized. I cannot support a constitutional amendment that will limit that freedom.

To preserve means to keep intact, to avoid decay, but this amendment would leave the freedom of speech intact, less robust, more in a state of decay. To support an amendment which would, for the first time in 200 years, reduce the personal freedom that all Americans have been guaranteed by the Constitution would be, for me, inconsistent with my oath.

Senator BIDEN, October 16, 1989:

Today we embark on what in my view is one of the solemn tasks any Member of the U.S. Senate can engage in; that is, the task of deciding whether to amend the U.S. Constitution, a document that, together with the Magna Carta, stands as one of the greatest monuments to liberty in the history of all mankind.

Senator PAUL SIMON, June 14, 1990:

Because I disagree with an unpopular decision by the Court—

Senator SIMON said:

Because I disagree with an unpopular decision by the Court does not mean that we ought to then all of a sudden rush in and, for the first time in 200 years, amend the Bill of Rights.

Madam President, I wanted to put this argument in perspective. I understand the concern of my good friend from South Carolina. He supports spending limits. He opposes public funding. He is, indeed, confronted with a Hobson's choice. But the issue before us with regard to the Hollings amendment is whether we want to recommend amending the first amendment for the first time in 200 years because we do not like a Supreme Court decision. That is precisely what was before the Senate 3 years ago with regard to the constitutional amendment to prevent flag burning.

The principal advocates of the underlying bill, Common Cause, the Washington Post, oppose amending the first amendment. And many of our colleagues have expressed themselves on the inadvisability of amending the first amendment as recently as 3 years ago.

I understand the frustration of my friend from South Carolina, but,

Madam President, I hope that this sense-of-the-Senate amendment will be defeated overwhelmingly and on a bipartisan basis, indicating that Members of the Senate do not feel it is a good idea to amend the first amendment or, for that matter, the Bill of Rights for the first time in 200 years because we object to one Supreme Court decision.

Madam President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Madam President, we have just had a very, very interesting lecture about the dangers of amending the first amendment for the first time in 200 years by the same gentleman who wanted to amend the first amendment for the first time in 200 years to ban flag burning. I think it is wrong to evade the issue of whether you are going to limit campaign spending by wrapping yourself in the Bill of Rights, in an incorrect citation of the Bill of Rights and the first amendment itself.

For example, Madam President, as to the distinguished Senator's analysis of the first amendment and Bill of Rights, under Constitution amendment No. XXIV:

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

There it is. The Bill of Rights is amended in the 14th amendment. You can go through a lot of these other amendments. Amendment No. XVI, the right of citizens of the United States of 18 years of age or over, their right to vote shall not be denied or abridged by the United States or any State on account of age. So 18-year-old Americans did not have freedom of speech—the right to vote—in elections until we amended the Bill of Rights, amended it by saying to the 18-year-olds, speak. We want to hear your voice. We want to hear your speech. We want to hear your vote.

I have often heard in debate that patriotism is the last refuge of scoundrels. Likewise, the first amendment, the Bill of Rights, is the last refuge of those who know that a majority want to limit campaign spending. There are those who do not want limits. And categorically, the distinguished Senator from Kentucky says he does not want to limit spending. He claims that we are not spending enough. He says we spend more on cat food, on "Kibbles and Bits."

It is this Senator's contention, supported by a majority because we have had a majority vote for this constitutional amendment, that we need spending caps. We did not get the 67 votes, or two-thirds, to amend the Constitution, including the votes of many of the Senators whom he alludes to with respect to the flag burning amendment. But on this current amendment, he is trying to intimidate those Senators by implicitly threatening that they are going to face a 30-second attack ad in their next election on the charge of flip-flopping, because they said they would not amend the first amendment. The charge is that now they are voting for the Hollings-Specter amendment that allegedly amends the Bill of Rights. Absolutely false. It does nothing of the kind.

Let me read what we are voting on:

A sense of the Senate that Congress should adopt a joint resolution proposing an amendment to the Constitution that would, one, empower Congress to set reasonable limits on campaign expenditures in support of or in opposition to any candidate in any primary, general, or other election for Federal office; two, empower the States to set reasonable limits on campaign expenditures by and in support of or in opposition to any candidate in any primary, general, or other election for State or local office.

We do not say anything about limiting speech. It is our opponents who equate money with speech, relying on the unconstitutional decision of Buckley versus Valeo. They would have it that four Justices voted to amend the first amendment of the Bill of Rights for the first time in 200 years. But, as Justice White argued with regard to both contribution limits and spending limits, they "are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech of political candidates or of political speech in general." That is what Justice White said.

According to the distinguished Senator's analysis, Byron White wanted to amend the first amendment for the first time in 200 years. Come on. The issue is spending limits, not speech. Justice Thurgood Marshall sided with Justice White. I know the unique and challenging personality of the late Justice Thurgood Marshall. I am not intimate to the proposal he made with the Library of Congress regarding his papers. But having known him, and having respected him greatly, I can see Justice Marshall saying, yes, don't wait any 20 years for everybody to be dead and people saying who is Marshall? You might as well know what I was thinking now. Here is what he said in Buckley versus Valeo. By striking down the limit on what a candidate can spend, he said, "it would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

The late Justice Marshall wanted, my friend from Kentucky would say, to amend the first amendment in the Bill of Rights for the first time in 200 years. But, as Justice Marshall made clear, speech is not at issue. At issue is the corrupting influence of money.

In Buckley versus Valeo, the Supreme Court absurdly equated a candidate's right to spend unlimited sums of money with his right to free speech. The majority drew a bizarre distinction between campaign spending and campaign giving. For first amendment reasons, the Court struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to figure why that same test—"the governmental interest in preventing corruption and the appearance of corruption"—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by Buckley versus Valeo.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

If you are a nurse or teacher or doctor involved in a political action committee, you are attacked with the epithet special interest, special interest, special interest. But big fat cats, the billionaires now are elevated in this land. The little people are derided as special interests. The common good is gone. Great individual wealth is revered.

My friend Ross Perot, heavens above, if the Government had paid on his invoices for computer services the way it pays on the national debt, Ross would be on food stamps. I can tell you that right now. But we elevate the billionaire, and he can run around, change positions and go in all directions, harassing the President who is trying his best to speak candidly to the American people. President Clinton is telling the truth, telling us that we need spending cuts, we need spending freezes, and we need taxes. And, let's be clear, it is the President's predecessors who are raising taxes every day by $1 billion to pay interest on the debt they quadrupled.

I am tempted to come on the floor at the morning hour each day and point out that the Republicans raised taxes today, they spent another $1 billion to pay interest on the debt. Because they quadrupled it with this nonsense of growth, growth, growth, running

around like monkeys on a string; growth, growth, just by gosh, cut taxes, run up the deficits and debt. As a result, net interest costs in 1981 were $52 billion. Today, interest costs are more than $230 billion. Gross interest is now $310 billion, and that is with low interest rates. Let the interest rates go back up and we are in real trouble. Interest costs are over $1 billion every day of the week, except Sunday. So we can come on the floor and say, eek, taxes. But the hidden taxes of interest costs are up, up, and away. The luxury tax we can repeal, the catastrophic health insurance tax we can repeal. But you cannot repeal interest taxes. You have to pay them.

Bear in mind that President Ronald Reagan signed every appropriation bill, save for one small supplemental in his first year. He signed every appropriation bill from then on.

Likewise, President George Bush has his name on every red cent of spending during his 4 years as President. He had 43 vetoes; he never vetoed spending. Yet, they have the audacity, the unmitigated gall to come on the floor and say: Taxes, taxes, taxes; when you raise taxes, that ruins competitiveness and loses jobs.

How many jobs are lost as a result of the interest costs on the debt? Think what we could do with the $300 billion per year we squander in interest payments. This is the Reagan-Bush debt. They ran it up. That is why we are in this wrecked economy here and why President Clinton is trying to repair the mess. They say no to taxes, make spending cuts first, as if we have the luxury of choice. We must do both. Now. You can eliminate the Congress, the President, food stamps, foreign aid, the departments of governments—just eliminate them, do not cut them—and you still have a $150 billion deficit. So spending cuts alone won't do the job. Let us talk sense.

When we come to campaign spending limits, do not wrap yourself up in the first amendment, the Bill of Rights and freedom of speech. What we are trying to do is restore—as the Commission on the Constitution downtown has said—"restore" freedom of speech, because at the present time, if I have $1 million and you have $50,000, then I have speech and you don't. I can wait until October 10 in the campaign, and then I unload my barrage. I can have my TV ads, billboards, magazine articles all ready, and I just unload a million dollars' worth of speech, and you only have $50,000 to respond. It's totally inadequate. Your family wonders why you are not answering. Veritably, under Buckley versus Valeo, your freedom of speech is taken away.

So if we are going to talk about the first amendment, which I revere; if we are going to talk about the Bill of Rights, which I revere; and if we are going to talk about freedom of speech, which I revere, then let us vote for the Hollings-Specter amendment. We are finding out in this particular sense of the Senate who is who and what is what. And this is the one opportunity we have to come back to the bipartisanship that enacted the Federal Election Campaign Practices Act two decades ago. That is what we have been trying to do.

S. 3 and the leadership approach to reform has bogged down into a partisan wrangle. Like a dog chasing its tail, we are spun around in contortions about how much you can and cannot spend, whether compliance is voluntary or coerced. And, by the way, if you do not comply, you must put in your ad "I do not agree with voluntary limits"—and they dare to call this a voluntary system.

That is patently unconstitutional. We keep running around voting on unconstitutional nonsense around here. If you want to preserve and protect the Bill of Rights and the Constitution, support my constitutional amendment. We have it cold and clean, and we have it checked with the best of constitutional authorities. It permits limits on expenditures, period. That is what is really at issue. Then the Congress, the Senate, and the House can get together, Republicans and Democrats, and impose appropriate, reasonable limits. And we don't have to resort to the subterfuge of so-called voluntariness.

They are trying to coerce and pretend it is voluntary. It is not going to pass constitutional muster. That is why I am offering this sense-of-the-Senate resolution, to let Senators speak out, because a majority voted for this before. We did not get the necessary two-thirds. This time, regrettably, I am not in a position to amend the underlying bill because this is a joint resolution to amend the Constitution, requiring approval of the States, rather than a bill requiring the approval of the President.

So we seek approval of this sense-of-the-Senate resolution to get this issue out on the table, to try to restore bipartisanship, to try to get spending limits in the most direct way possible.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The chair recognizes the Senator from North Dakota.

Mr. DORGAN. I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection. It is so ordered.

MANAGED COMPETITION

Mr. DORGAN. Mr. President, in Rugby, ND, top quality health care costs a lot less than it does in most other rural areas. Through the Heart of America HMO, Rugby provides health care to most of its 2,900 residents and to surrounding counties through four satellite clinics. And the HMO provides this much needed rural health care for about $100 less per family per month than comparable Blue Cross/Blue Shield plans in the State.

When the Secretary for Health and Human Services, Donna Shalala, visited Rugby a few weeks ago, she called the Heart of America HMO "the wave of the future." We're proud of the way that this North Dakota community has responded to the challenge of providing quality rural health care efficiently.

I am not telling you this just to brag about Rugby, or as a way of saying the health care system in this country isn't broke. But I am saying that, in some communities, we know how to fix it.

Secretary Shalala said that Rugby is "what the new model for rural health care delivery is going to look like in this country." And I suspect she's right. But the folks at the Heart of America HMO will be the first to tell you that their success doesn't provide a cookie-cutter formula guaranteed to fix the Nation's rural health care woes.

The unique problems of rural health care aren't only unique to rural America; they are unique to each and every rural community. Anyone who thinks that rural North Dakota probably is a lot like rural New England ought to spend a couple days in my home State.

These differences highlight the need for a single major component to underlie any serious attempt at health care reform—flexibility. The United States is more like a dozen countries than a single country in that, within our borders, we have 250 million people, hundreds of cultures, and dramatically varying climates and environments. In short, we have 50 very different States, and I think all of them would reject a proposal to create a uniform health care system.

Let us talk first about what rural health care is all about. More than 22 percent of our Nation's population lives in rural areas. Most of these areas face an acute shortage of physicians and a critical lack of access to health care services. In more populated areas the chief health care problems are usually related to cost, but in rural areas cost and enhanced access must be vital components of any health reform proposal.

Obviously, the concept of managed competition in sparsely populated rural areas is unworkable and unimaginable—there simply is no competition to be managed in rural areas where the primary health concern is access to basic care. From my discussions with Hillary Clinton and Ira Magaziner, I am confident that the health reform proposal that we receive from the President will recognize the unique circumstances in rural areas.

However, I want to emphasize that, just like urban and rural areas have

different health care concerns, different rural areas also have unique health needs that cannot be effectively addressed by a single, cookie-cutter national plan.

In my own State of North Dakota, 36 of our 53 counties are frontier counties with fewer than 6 people per square mile, and 3 counties have fewer than 2 people per square mile.

How does that translate into health care needs? Thirty-eight of our 53 counties have physician shortages. Sixteen counties have no hospital beds, and 5 don't even have a satellite clinic facility.

Just for discussion's sake, I'd like to draw a comparison with another rural State—Vermont. Both States have populations of about 600,000 people, both States get a lot of snow in the winter, and both States are proud to call themselves rural America. But when it comes to health care, our similarities end right there.

Vermont has just over 9,000 square miles; North Dakota covers nearly 70,000 square miles with almost the same population. Geographically, more than seven Vermonts could fit into one North Dakota.

In 1986, Vermont had 246 physicians for every 100,000 people. North Dakota, in comparison, had only 133—barely half the number in Vermont, despite the fact that patients have to travel much greater distances to reach a doctor in my State. By 1995, the difference in physician ratios is expected to jump to 305 doctors per 100,000 people in Vermont versus 152 in North Dakota.

This difference in health care needs also extends to other health care professionals. For example, in 1989 Vermont had nearly 36 clinically trained psychologists per 100,000 residents; North Dakota had fewer than 17 per 100,000 residents.

But when you look at registered nurses, you'll see the situation reversed. In 1988, Vermont had only 821 registered nurses per 100,000 people, but North Dakota had 923. Only five States had a greater ratio of registered nurses to their population than North Dakota.

Each of these differences must be integrated into a comprehensive health reform plan for both North Dakota and Vermont. Each State needs a plan that enhances its strengths and directly addresses specific gaps in health care delivery. No cookie-cutter uniform plan is going to do the job for both North Dakota and Vermont.

Here's what we're doing in my State: In response to a growing number of uninsured North Dakotans and skyrocketing health costs in the state, health care providers, insurers, and consumers in North Dakota have come together to form the North Dakota Health Task Force. With assistance from the Robert Wood Johnson Foundation, the task force has begun developing its proposal for statewide health reform.

The task force has challenged itself to go further than the kinds of universal principles proposals that we often see from large industry and umbrella organizations. Instead, the task force has set specific timetables and has begun developing a comprehensive, detailed legislative proposal.

Here in Congress, we talk a lot about the need for innovation in this country. The North Dakota Health Care Task Force and the HMO at Rugby, ND, demonstrate the range of innovative new ideas that states and communities already are experimenting with to address the unique problems and needs of rural health care. As we look to proposals for national health care reform, we have to ensure that we don't stifle the energy and innovation that are already at work fixing many of the problems with our health care system.

I am not suggesting that rural areas should be exempted from the national health reform plan. The crisis in our health care system is a national crisis. Too many citizens don't have insurance coverage or don't have access to a physician. We have to find a way to fix this problem across the country, and to do it without it costing—literally and figuratively—an arm and a leg.

I fully recognize the magnitude and scope of this problem, and I will wholeheartedly endorse a national solution. I agree with those who say that rural areas as well as urban areas must accommodate our national drive toward containing costs and providing universal health care access.

Within the parameters of these broad health reform goals, however, rural areas should be given maximum latitude to devise their own proposals for meeting the goals. In order to make health care reform work, we have to bring the ability to tailor a health reform plan as close as possible to the people who deliver and consume health care services.

I know from experience that American communities will come through with innovative, ground-breaking proposals that work for them—that accommodate their unique needs and circumstances—if we'll only give them the flexibility to do it. I urge my colleagues and the White House to remember our diversity as we all struggle to attain our common goal—universal health coverage for all our citizens.

I would be happy to yield to my colleague, Senator JEFFORDS from Vermont, whom I visited with about this issue of flexibility. We have different States and different needs, but both have the same need for flexibility in the health care proposal.

Mr. JEFFORDS. Mr. President, I am happy to continue to speak on the question of how best to achieve rural health care reform. I agree with everything that my colleague from North Dakota has said. I also commend him on the charts which have been very informative in letting people know the serious differences we have in the ability to provide health care in rural areas and the need for flexibility.

It comes down to, as he said, that with delivery of health care in rural areas, one size does not fit all. I believe any national reform effort must be evaluated in terms of whether it achieves three important goals: First, it must ensure that all Americans have health benefits; second, it must eliminate the cost shifting that occurs within our present system; and third, it must have strong cost containment provisions in order to control health care's impact on the Federal budget deficit.

For health care reform to work best, State flexibility is essential. The States are in a better position than the Federal Government to determine the best way to deliver care and keep health care costs in line. They are closer to the people, and able to respond more quickly to their needs. State flexibility is the cornerstone of my own reform proposal, called the MediCore Health Act. I introduced it last year. After making some refinements, I will be reintroducing the proposal today. I am pleased to be able to say that the administration is also taking a look at my MediCore proposal.

Having had several discussions on health care with Mrs. Clinton and her staff, I believe our goals for health care policy reform are very similar, and I am pleased with recent changes that have been announced relative to financing.

I agree, as was reported in the Washington Post today, that no significant amount of new money needs to come from the private sector. Good Lord, we are spending enough now, more than twice as much as some of our industrialized countries and with no significant indication of any better health care.

As Senator DORGAN points out, managed competition may not work in North Dakota and many other rural areas. In my own State of Vermont, the jury is still out when it comes to determining whether or not managed competition will work. Last spring, the Vermont Legislature passed many strategic health care reforms including the creation of a new State agency, the Vermont Health Care Authority. The health care authority has many responsibilities but one of its most important tasks will be to develop two approaches to ensuring health care for all Vermonters, a single-payer and a limited-payer system. The limited payer may well be referred to as a managed competition type of system. Come next January, the State legislature will vote on which of these two approaches will work best in Vermont. In the meantime, networks of care are developing at a rapid rate in response to our new State law.

I must stress that the changes in law that took place in 1992 were certainly not the starting point for health care reform in our State. While we are not without our health care problems in Vermont, we have been working toward solutions to our problems for well over 6 years. Vermont has been a true pioneer in health reform. Many of the State's past initiatives in this area are now considered essential elements of any national reform that takes place. I am extremely proud of our accomplishments to date.

For example, in 1988 Vermont initiated one of the first continuous quality improvement programs in the country, the Vermont Program for Quality of Care. This program is designed to collect, analyze, and distribute outcomes research to Vermont doctors and hospitals. It received national recognition in the form of a Robert Wood Johnson Foundation grant. The grant enabled the program to share research on the national level regarding cesarean sections and lower back pain.

In 1989, the State of Vermont acknowledged the fact that the current Medicaid Program is inadequate in its coverage for the poor. In response, the State initiated one of the most comprehensive programs in the country to provide primary and preventive care to low-income children. Our program, called Dr. Dinosaur, provides care for children under the age of 18 living in families with incomes of up to 225 percent of the poverty level. I am also pleased to report that 85 percent of the eligible population is currently enrolled in Dr. Dinosaur.

In 1991, once again Vermont had the foresight and fortitude to tackle another important health policy problem relating to insurance market reform. We passed a law that requires all insurance companies to community rate and guarantee acceptance of all group insurance contracts. By July of this year, these insurance market reforms will extend to individual policies as well.

Finally in 1992, Vermont passed several additional reforms that are likely to be paralleled on the national level. For example, all insurance companies are now required to use universal forms and procedures for processing claims. A statewide data bank was created as a centralized source for determining Vermont's resources, the health care needs of our population, and outcomes of various medical procedures. Again, we received a Robert Wood Johnson grant so that all States could learn from Vermont's efforts.

The new law also requires insurance companies to create and submit to the Vermont Health Care Authority a plan on how they will integrate health care delivery systems in a way to insure patient satisfaction and continuous quality improvement.

As I mentioned earlier, the Vermont Health Care Authority has several important responsibilities. It is the central point for all health planning within the State. It must develop two alternatives for providing access to health care by next January. It needs to ensure universal access to a set of health benefits by October of 1994. At the same time, it will be responsible for enforcing global budgets for all health spending within the State. Expenditure targets will need to be in place by this July, and an actual budget will go into effect 1 year later.

Mr. President, Vermont is trying its best to try and show how a rural State in this country can provide the kind of health care that is necessary. Along with the creation of the health authority, Vermont also created a 3-year trial period for a medical malpractice arbitration panel. Once our new delivery system is up and running, all medical malpractice disputes will have to undergo mandatory arbitration. The arbitration process itself will not be allowed to take more than 10 months. If appealed, the panel's decision and its findings would be admissible as evidence in court. This is necessary so that doctors will not have to order extra tests to protect themselves from liability. Practice guidelines would be used as the standard for care. After the 3-year trial period, the Vermont Health Care Authority would be responsible for evaluating the new system and issuing a study on it.

Whether or not managed competition can work in Vermont, one thing is for certain, we know how important it is to manage care. The concept of managed care, using a continuous quality improvement process to ensure quality care and patient satisfaction, is now an integral part of health care delivery in Vermont and its role will only increase in the future.

It is my understanding that the Clinton administration will encourage managed competition in those areas where it is appropriate and give States the flexibility to opt out of this kind of system when it just will not work. For rural areas where managed competition may not work, the Clinton administration envisions a system of managed cooperation instead of managed competition. The administration will look to HHS to develop models for rural network development that States may want to try. For example, a public utility approach, where a health plan would be required to service a rural area in exchange for being able to bid on a more urban area within a State, could be used in some States. In other States, price variation, where health plans pay a higher rate to doctors who agree to practice in rural areas, could be implemented. In addition, it is my understanding that the Clinton plan will encourage rural health plans to contract for shared resources, like specialty doctors and centers, that work for more than one plan.

Mrs. Clinton has even talked of using interactive video in order to ensure that rural doctors are able to obtain second opinions. Both Democrats and Republicans acknowledge that we need to work on manpower policy in the health area in order to encourage National Health Service Corps doctors to stay in rural areas, as well as ensure sufficient primary care and support for primary care physicians in rural areas.

I am very supportive of all these ideas. Furthermore, I believe that the Clinton administration is planning to allow States to opt entirely out of a managed competition delivery system and put in a single payor system if they prefer. It is particularly important that rural States like Vermont have this flexibility.

I commend the administration for its commitment to State flexibility, even though they are likely to take a less direct approach than I do in my MediCORE bill. It seems that the administration wisely realizes that States need the freedom to be able to explore their own unique approaches to solving their health care problems. I am convinced that it is only through State experimentation that we will all learn better ways of achieving our health policy goals. We have much to learn.

While my own home State of Vermont has enacted many important reforms, we have a long way to go before we completely achieve our goals. We are not without our share of obstacles to overcome. For example, we have almost 64,000 uninsured Vermonters. Many of these folks will need financial assistance for obtaining care. In addition, we need to do better at creating delivery structures that eliminate transportation and other geographic barriers to care.

While Vermont may have more doctors than they do in North Dakota, our population may well be more disbursed. Approximately 45 percent of North Dakotans live in cities of 8,000 or more compared to 20 percent of all Vermonters. Most of us in Vermont enjoy a rural lifestyle and our health care delivery system will need to reflect this. Furthermore, when designing preventive care programs, Vermont will need to come up with a plan that puts a special emphasis on preventing breast cancer, as our State unfortunately has the fourth highest incidence of breast cancer in the country. Perhaps our biggest challenge in the health care area will be to find the most equitable ways of staying within our health care budget.

While there is still much to be done to improve health care in Vermont, I am confident that we are moving ahead in the right direction. We are fortunate in the sense that unlike many areas, we have all the interested parties, providers, businesses, consumers, and State officials, working together to tackle our problems. Any national re-

form effort must build on the progress already made and not impede State efforts. States must have the freedom to explore creative ways for achieving efficiencies within the system as well as for improving the quality of care. The Federal role should be to encourage State creativity in meeting health care goals. This can only be done through a flexible approach on the part of the Federal Government. Anything less just will not work.

I will just conclude by commending the Senator from North Dakota for rising to help explain the problems of rural areas and the necessity that we cannot have just one national system that is going to try to fit all different areas. I look forward to working with him as the health care debate progresses, trying to find the best possible health care program for this country.

Mr. President, I yield the floor.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, I understand this unanimous consent request has been cleared on both sides.

Mr. President, I ask unanimous consent that the time until 11:45 a.m. today be for debate of the pending Hollings amendment No. 380, with the time equally divided and controlled in the usual form, with no second-degree amendment in order thereto, and that at 11:45 a.m., the Senate, without intervention action or debate, vote on or in relation to the Hollings amendment number 380.

Mr. MACK. Reserving the right to object, and I hope I will not have to object, as long as I will have an opportunity to speak as if in morning business between now and that time.

Mr. HOLLINGS. I object to anyone speaking in morning business. That is all we have done all morning long. We are trying to bring this to a conclusion.

Mr. MACK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Is their further debate on the amendment?

Mr. MCCONNELL addressed the Chair.

The Chair recognizes the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I say to my friend from Florida, we are trying to get a vote scheduled here. How much time is he seeking?

Mr. MACK. Probably 7 minutes.

Mr. MCCONNELL. How much time is the Senator from Washington seeking?

Mrs. MURRAY. Approximately 4 or 5 minutes.

Mr. HOLLINGS. I will yield her 5 minutes, if you will yield him 7 minutes between now and 11:45. We can go ahead with the agreement and we can both yield.

Mr. MCCONNELL. I think that is agreeable.

Mr. HOLLINGS. Again, Mr. President I ask unanimous consent that the time until 11:45 a.m. today be for debate of the pending Hollings amendment No. 380, with the time equally divided and controlled in the usual form, with no second-degree amendment in order thereto, and that at 11:45 a.m., the Senate, without intervening action or debate then vote on or in relation to the Hollings amendment No. 380.

Mr. MCCONNELL. Reserving the right to object, I want to make certain that I have 5 minutes before the vote. If the Senator from South Carolina can modify the UC agreement to accommodate that, then I will have no objection.

Mr. HOLLINGS. If I can also have 5 minutes before the vote.

Why do we not change 11:45 to 11:50?

Mr. MCCONNELL. That would be fine.

Mr. HOLLINGS. I amend the request to 11:50.

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

The Chair recognizes the Senator from Washington for 5 minutes.

Mrs. MURRAY. I thank the Chair.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 1037 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida for 7 minutes.

Mr. MACK. Thank you, Mr. President. And I thank the distinguished Senator from South Carolina for making this time available to me.

PRESIDENT CLINTON'S TRUST DEFICIT

Mr. MACK. Mr. President, earlier this year, David Broder of the Washington Post wrote an article about President Clinton's trust deficit. In that article, Broder expressed the concerns of Americans across the Nation that the President has a major credibility gap.

Since then, the President has done nothing but heighten those concerns. Bill Clinton still has not done what he promised; he has not given the American people what they voted for.

His trust deficit is certainly exposed in the case of the Btu tax. Where candidate Clinton promised that the middle class would get a tax cut, President Clinton is socking them with a major tax increase.

In his book, "Putting People First," candidate Clinton opposed a Federal gas tax and said, in his words, that it would be "backbreaking" to the middle class. But Bill Clinton's Btu tax will raise the price of gasoline just like a gas tax will. And it will be just as unfair and could hurt the middle class just as much.

The consumer watchdog group Citizens for a Sound Economy calculates that the average family would pay at least an additional $125 per year on just the gas tax component of the President's Btu tax. This is because it estimates that the gas tax component will add at least 8 cents a gallon to the price of gasoline.

The President's trust deficit is even more apparent in looking at his overall tax package. Candidate Clinton said he would reduce the deficit, and promised to cut spending by more than he raised in new taxes.

When he became President, his Budget Director confirmed a deficit plan that would cut spending by $2 for every dollar in new taxes.

By the time President Clinton gave his State of the Union Address, the ration of spending cuts to new taxes had slipped. He talked about cutting spending only $1 for every dollar in new taxes.

Soon after that, when the President submitted his Budget to Congress, there were not $2 in spending cuts for every dollar in tax increases; there was not even $1 in spending cuts for every dollar in tax increases. His budget package had turned into $3 of tax increases for every dollar of spending cuts.

And now, the President and his Democrat pals in Congress are presenting the American people with a tax bill that raises $5 in new taxes for every dollar in spending cuts. As a further insult, there are virtually no net spending cuts in 1994 and 1995. Nearly all the spending cuts require some future Congress—not this one—to make the tough choices on cutting spending. In other words, there is only the promise of spending cuts in the future. "Trust me," says the President.

His program of $5 in tax increases for every dollar of spending cuts is even scaring the tax-happy House of Representatives. Today the House is scheduled to vote on a package that has net reconciled spending cuts of $55 billion over 5 years and tax increases—including user fees—of $288 billion. This is an explosion of Government. It is the largest tax increase by far in our Nation's history. And it may be followed by what could be another spending explosion on health care.

The American people are not buying the President's package. They want spending cuts first and they want spending cuts now. Here are examples of the letters and cards that have flooded my office with the simple message of cut spending first. Let me read one of them.

This is the first time in 57 years that I have felt strongly enough about an issue to

write one of my federal representatives. The issue is the current debate going on regarding the budget. It appears that the congress and the current administration do not understand what we the electorate are concerned about. The issue is spending. If the Congress and the administration would spend more time discussing how money can be saved rather than spent we would all feel a lot better. There are many ways to save money that aren't being considered or are being protected because of a special interest. I don't mind sacrificing if it is as a result of a cut back. I do mind if it comes as a result of additional debt or more taxes. I can't operate my finances in the red and I don't understand how or why government should.

He is saying in essence, "cut spending first."

These three simple words have been the battle cry for a revolution sweeping the Nation. If the President continues to ignore the calls of the American people, his Presidency will be swept under by this tide of revolt.

That is what this debate is all about.

The American people have been down this road before with the same, tired program of tax hikes now with only the promise of spending cuts later.

Trouble is, taxes continue to rise, the economy continues to suffer, the debt continues to soar, and Government spending spirals out of control.

The American people have had their fill of empty promises. The system is flat out broke. That is why we need to bypass this whole mess and take a lesson from the Base Closure Commission to form a spending cuts commission.

Under my bipartisan legislation, the commission would come up with $65 billion a year in cuts—with Congress and the administration having only the ability to say "yes" or "no" without amendments.

Congress is not cutting spending first. The administration certainly is not cutting spending first. It is time to reinvent the system.

But in the meantime, we simply cannot tolerate more taxes for more spending and more Government. We must restore the American spirit of innovation and competition, not punish success. The Clinton plan means failure—not only for the American people, but for his Presidency.

Let me add one more thought on the President's trust deficit. During his campaign, candidate Clinton continually pounded at President Bush for extending most-favored-nation trade status to China. He said we should not "coddle tyrants from Beijing."

Yet last night at a town meeting, the President announced that he would extend MFN status for another year. Despite their extensive record of human rights abuses, their use of gulags and prison labor, their devastation of the people of Tibet, and their active nuclear weapons sales to terrorist countries, the President believes those tyrants in Beijing deserve unrestricted trade privileges.

What kind of a signal does this send to the world when the President continually reverses his position? What kind of trust do others in the world have of us that our policies affecting them will not change tomorrow?

The real question is, is this President up for the job he was elected to do?

The PRESIDING OFFICER. Who yields time? The Senator from Kentucky [Mr. MCCONNELL].

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. MCCONNELL. Mr. President, we are going to be voting at 10 minutes to 12 and I could, under the unanimous-consent agreement, make a motion to table. But I will not do that. I think it is important for the Senate to be clearly on record, up or down, on the question before us.

My good friend from South Carolina suggested that my credentials for raising the constitutional argument against amending the first amendment were tainted because I had earlier supported the flag burning amendment. I have only been here—I guess I am beginning my ninth year. The Senator from South Carolina has been here considerably longer than I. I do not know whether he has ever cast a vote that he subsequently regretted or whether he has ever changed his mind over a period of time. But I would say there is no vote I have cast since I have been here that I subsequently concluded was more in error than that one. I can assure my friend from South Carolina that if the question of revisiting the first amendment were before the Senate today on the question of flag burning, I would vote differently from the way I voted 3 years ago.

I have changed my mind. I have had an opportunity to research more thoroughly the whole implications of revisiting the first amendment. I do not know if my friend from South Carolina has ever changed his mind about an issue, but I have clearly changed mine about that one.

So, if the fact that I voted for that amendment in 1990 tarnished my credentials, then the tarnish is removed. That vote was a mistake. If I had to do it over again, I would vote differently.

So, let us go to the heart of what is before us: The constitutional amendment provision that the Senator from South Carolina offers, an amendment to the Constitution that would "empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office."

What did the Washington Post say about the Hollings amendment? In its editorial of April 6, 1988, it said as follows:

Mr. Hollings would simplify the matter, but at considerable cost. His amendment said, in a recent formulation: "The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal offices." But that's much too vague, and so are rival amendments that have been proposed. Ask yourself what expenditures of a certain kind in an election year are not "intended to affect" the outcome? At a certain point in the process, just about any public utterance is.

Nor would the Hollings amendment be a political solution to the problem. Congress would still have to vote the limits, and that is what the Senate balked at this time around.

As Buckley v. Valeo demonstrates, this is a messy area of law. The competing values are important; they require a balancing act. The Hollings amendment, in trying instead to brush the problem aside, is less a solution than a dangerous show. The Senate should vote it down.

The Washington Post, which supports the underlying bill, opposes the constitutional amendment.

Common Cause, which is the most aggressive supporter of the underlying bill, opposes the constitutional amendment.

The letter I have referred to earlier from the American Civil Liberties Union, dated June 4, 1992, raises a very important point about the potential for amending the first amendment for the first time in 200 years, and the implications thereof.

"Finally," the ACLU says:

* * * as an amendment subsequent to the First Amendment, the existing understandings about the protections of freedom of the press would also be changed, thereby empowering Congress to regulate what newspapers and broadcasters can do on behalf of the candidates they endorse or oppose. A candidate-centered editorial, as well as op-ed articles or commentary, are certainly expenditures in support of or in opposition to political candidates. The amendment, as its words make apparent, would authorize Congress to set reasonable limits on the involvement of the media in campaigns when not strictly reporting the news. Such a result would be intolerable in a society that cherishes a free press.

Mr. President, there are partisan disagreements about the underlying bill. Obviously that is the case. But on this amendment, the issue is precisely the same that the Senate visited in the flag-burning issue. The question is quite simply this: After 200 years, do we want to amend the first amendment?

Let the debate continue on the underlying bill. But let us today, on a very strong bipartisan basis, say no to amending the Bill of Rights for the first time in 200 years.

Mr. President, I rest my case. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I have emphasized we are not amending the constitutional Bill of Rights for the first time in 200 years. We are not amending the Bill of Rights at all. We are affirming the Bill of Rights. We are

affirming and restoring true freedom of speech in Federal campaigns.

The truth of the matter is that the amendment does not limit speech with respect to the context of speech itself. It says, "Empower Congress to set reasonable limits on campaign expenditures * * *." You can talk all you want. "Empower the States to set reasonable limits on campaign expenditures * * *." You can talk all you want.

The Court, in looking at television and its costs, said, "Wait a minute. In campaigns, money is speech."

For argument, let us go along with that analysis that money is speech. But where is the difference between the contributor's speech and the spender's speech? The Court said that the spender was unlimited; he had total freedom. But the contributor could be limited because of the appearance of corruption. How can there be corruption if everything is open to the public, on the public record? If there is a corrupt gift, it is on the record. You can defeat a fellow on that.

So Buckley versus Valeo is a distorted decision that took away true freedom of speech, which I have emphasized time and again. If you have money, you have freedom of speech; if you do not have money, you have the freedom to shut up. We all know that in war whoever controls the air controls the battlefield. In campaigns, politically, whoever controls the airwaves controls the campaign. And so it is that we are trying to restore equal freedom of speech by putting reasonable limits on spending. S. 3, supported by The Washington Post among others, provides for public financing, food stamps for politicians. They want Common Cause-style public financing; food stamps for politicians.

I oppose public financing. Politicians ought to go back to their constituents, have an accounting, meet on the main street, talk to the Rotary Club, explain your votes. We cannot do that in a national election because the other 49 States are not my constituents. It is totally impossible. So we have had public financing in national, Presidential elections. But don't try to use that as a precedent. It is inappropriate with respect to campaigns for Congress. We cannot have food stamps for politicians.

We have dithered for 20 years as campaign costs have gone up, up and away. And it has corrupted. Everyone agrees—Republican, Democrat, those who favor, those who oppose financing—that we cannot vote on Friday, we cannot vote on Monday, we have to get out here to raise money; someone has a fundraiser downtown, someone has this; we have to have a dinner break, so we have fundraisers and then we all come back at 9 o'clock to vote. It is an embarrassing spectacle.

I was here when the Senate started up on Monday morning and voted. I was here when we voted through Friday afternoon. We got through with our work. Now there is a week off to raise money every month. I mean, come on.

It is so out of control that we now have to raise $11,000 per week, and in a larger State like Wisconsin, it is probably nearer $20,000 per week for every week during the 6-year term. If you have not raised your money this week, you are out. You have to raise it.

That is what we are trying to correct, and that is what, in a bipartisan fashion, we corrected back in 1974, until our bipartisan reform was undone by Buckley versus Valeo. That decision took away freedom of speech. We are trying to restore true freedom of speech by means of this sense-of-the-Senate resolution.

The distinguished Senator from Kentucky did not say it today, but I have heard him in the past expound his eloquent Kibbles 'N Bits defense, his notion that we spend more money on cat food than we do on elections, and we ought to be spending more money on elections than on cat food. Well, unlike cat food, elections should not be up for sale. He and I disagree fundamentally on that. We ought to limit spending, and this is a bipartisan approach to express a sense of the Senate so we can later move to the joint resolution.

In the future, I can put up an amendment; we can have a debate; we can pass it and send it to the States, and the States would vote for it in a flash. You know it and I know it and everybody else knows it. But if you want not to limit the spending, then vote no.

But if you want to get to the real issue at hand, then we ought to go ahead and support this, as it has been supported by a majority of the Senate, in a bipartisan fashion, in the past. We have to get two-thirds.

If we have a few more minutes on either side, if it belongs to either one, do you want to yield back?

Mr. MCCONNELL. Yes.

Mr. HOLLINGS. We both yield back our time, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I think the order now is for a vote.

The PRESIDING OFFICER. The question is on agreeing to the Hollings amendment No. 380. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Alabama [Mr. HEFLIN], and the Senator from Texas [Mr. KRUEGER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—52

Akaka	Feinstein	Moseley-Braun
Biden	Ford	Murray
Bingaman	Glenn	Nunn
Boren	Graham	Pressler
Bradley	Harkin	Pryor
Breaux	Hatfield	Reid
Bryan	Hollings	Riegle
Bumpers	Inouye	Robb
Byrd	Johnston	Roth
Campbell	Kassebaum	Sarbanes
Conrad	Kennedy	Sasser
D'Amato	Kerry	Shelby
Daschle	Lautenberg	Simon
DeConcini	Levin	Specter
Dodd	Lieberman	Wellstone
Dorgan	Mathews	Wofford
Exon	Metzenbaum	
Feingold	Mitchell	

NAYS—43

Bennett	Faircloth	McConnell
Bond	Gorton	Mikulski
Boxer	Gramm	Moynihan
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Chafee	Helms	Packwood
Coats	Jeffords	Pell
Cochran	Kempthorne	Rockefeller
Cohen	Kerrey	Simpson
Coverdell	Kohl	Smith
Craig	Leahy	Stevens
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	
Durenberger	McCain	

NOT VOTING—5

Baucus	Heflin	Thurmond
Hatch	Krueger	

So the amendment (No. 380) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mrs. FEINSTEIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I would like to explain my missing the vote just taken on the Hollings amendment. As ranking member of the Senate Judiciary Committee, I was conducting Judiciary Committee business and did not hear the bell alert nor did I see the clock lights before the vote was concluded. I would have voted no on the Hollings amendment.

Mr. THURMOND. Mr. President, on the earlier vote today on amendment No. 380, I would have voted in the negative. I missed this vote due to a power failure in my office which caused the bells and the telephone alert to fail to work properly. I recognize that my vote would not have affected the outcome of the vote.

Mr. MCCONNELL. Mr. President, I want to commend the Senate for refus-

ing to agree to the Hollings amendment. As we all know, it takes 67 votes in the U.S. Senate to agree to a constitutional amendment. The amendment of Senator HOLLINGS only got 52 votes, a full 15 votes short. I want to particularly commend Senators on the other side who were willing to look to the substance of this, Senator BOXER; Senator MIKULSKI; Senator KERREY of Nebraska; Senator KOHL; Senator LEAHY; Senator ROCKEFELLER; Senator MOYNIHAN; and Senator PELL, who followed the majority leader's admonition 3 years ago when we were considering amending the first amendment to overturn the flag-burning case.

The majority leader said at that time 3 years ago that:

I do not believe we should amend the Bill of Rights. I do not believe that we should ever under any circumstances for any reason amend the American Bill of Rights.

I commend the majority leader for what he said 3 years ago on that subject. I particularly want to thank Senators BOXER, MIKULSKI, KERREY, KOHL, LEAHY, ROCKEFELLER, MOYNIHAN, and PELL for following that admonition.

Mr. President, I yield the floor.

Mr. WALLOP. Mr. President, I ask unanimous consent that I may proceed as in morning business.

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

THE RECONCILIATION PACKAGE

Mr. WALLOP. Mr. President, I was startled in a way, and not surprised in another way, to read the headline in the Wall Street Journal this morning that states "The White House Gives Ground on Energy Tax."

Mr. President, I ask if this is not the same administration who, excoriating the special interests, is now accommodating them one by one. I ask the Senate to consider if this Btu tax is not now more the equivalent of a Belgian lace doily than a straightforward policy. Every hole that has been punctured in the tax remains not a hole but a burden on the back of somebody whose interest was not special enough to be carved out by the White House.

The list of those whose interests have been accommodated is long, beginning with the Speaker of the House's interest in aluminum, and with the House majority leader's interest in beer, and with a variety of other interests, some of which I would agree with. But keep in mind, Mr. President, that these exemptions—this relief for the President's special interests—is someone else's burden. They are not, in fact, exempting these interests from the American consumer as an obligation to pay, or from other less-favored taxpayers to pay; they are relieving the obligations of the favored few that belong to the political elite that are drafting this wonderful little thing called the House reconciliation package.

There was a statement, I believe, in this week's U.S. News and World Report, which quotes a Los Angeles publication, basically saying that this administration is the most anti-job, antigrowth, anticonsumer administration in this half century.

If the administration's plan—if one can even determine what the administration's plan is, since it changes by the hour in the pursuit of votes—as outlined in the budget resolution and the reconciliation's instructions, were to be passed, it will, in effect, destroy the economy of this country, while it is struggling to recover.

It will raise taxes on all taxpayers five times more than it will cut spending. And most impressive of all, under the provisions of the bill that sits on the floor of the House today, during the first year that the bill would be in effect, taxes will exceed spending reductions by almost $17.

Over the 5 years of the bill, taxes will exceed spending by somewhere in the neighborhood of $7 in new taxes for every dollar achieved in spending reduction.

Mr. President, it is absolutely fair to assume that the American public honestly believed this President when he said that (a) there would be a middle-class tax cut and (b) there would be $2–$3 in spending cuts for every dollar in new taxes raised.

Had that promise been achieved, and given the administration's own tax increase now on the table of just under $300 billion, deficit reduction might be an impressive achievement of over $1 billion.

I think it is fair to say that the American public did not believe during the campaign that when they voted, they would get an administration committed to increasing the size of Government under the guise of the term "investment"—which is a word that Americans will learn means a bigger Government, with more regulations, more redistribution of income, and more growth in the very size of the thing which is now consuming us all. It is also fair to say that Americans did not expect to see no middle-class tax cut, and instead get significant middle and even lower class tax increase.

Mr. President, 54 percent of all Federal spending today goes toward entitlements and mandatory spending programs. I think it is obvious to everyone who will be honest for the moment that, in order to get a real handle on the increase in the growth of the deficit and thus the debt, we are somehow going to have to be brave enough to belly up to the question of entitlement growth.

But what appears to have been achieved in the House of Representatives is an agreement between House Democrat Conservatives and the White House that in effect says we have an absolute commitment that under no set of circumstances will we address entitlement cuts. Let me explain what I mean. What appears to be the compromise needed to obtain votes on the budget package in the House is the idea that we first will determine what growth in the entitlement programs is permitted by the budget resolution and then, if we exceed those ludicrously called caps, the President may recommend either an increase in taxes—which is a license I think Americans will loathe to give to an administration whose general tendency is to increase taxes—or further cuts in spending.

If the Senate would oblige me for a minute, I ask you, where will we go to get the further cuts in discretionary spending? The cash cow called the defense budget that has been used by Democrats and Republicans alike? The only identifiable cuts of consequence in the budget resolution are the extraordinarily large cuts in defense that even the most liberal members of the House Armed Services Committee are now saying may need to be replenished at the end of 5 years, lest we degrade our defense system so much that we endanger this country.

These are not Republicans, or Cap Weinberger types who say this. These are people, like the chairman of the House Armed Services Committee, who is generally not known for his passion to increase defense spending. But even he realizes that this cow has been milked dry and there is nothing more to be gained from her. Far from being on a sacred pasture, she now grazes on the endangered species list.

And we have also not yet seen what will be required of Americans with regards to health care reform. The alarming news this morning is that merely a tax on cigarettes will take care of health care spending, because we will require America's businesses to provide these health care packages.

Mr. President, even though the administration does not willingly call these obligations taxes, the administration cannot fool American businesses owners that this is in fact a tax on the cost of their production and operation.

So what we have is a huge increase, somewhere in the neighborhood of $100 to $150 billion a year for health care reform, as well as $300 billion in new taxes over the next 5 years. And you have milked the defense cow beyond her ability to be replenished.

So, where do we go from here, when, using the administration's own figures, 5 years from now we find the deficit has not been ever reduced, rapidly rising again? Where does America go to fix that problem? The problem, in fact, must be fixed before we ever reach that point.

The President promised us he was a new Democrat. Now we find instead that he has, in fact, exuberantly

launched himself as having the reputation of the old tax-and-spend Democrats. Whatever happened to the promises of spending cuts in the form of $3 for every $1 in tax increases? They were not even around long enough to grow stale on us.

The most empty promise and the most egregious tax of them all is, in fact, the Btu tax. The President, when the able Senators from Oklahoma, Louisiana, Missouri, and Maine brought up problems with the Btu tax, accused them uniformly and blindly of being captives of energy industry interests.

That is a ludicrous thing to say. The chairman of the Finance Committee in the Senate, Senator MOYNIHAN, even said on national television over the weekend that the Btu tax was not an oil issue; in fact, Mr. President, it is a jobs issue. And one need not go any further to understand this than the pleadings of the House Speaker who managed to get his aluminum and energy-intensive industries of the Northwest excluded from the provisions of this tax. Speaker FOLEY cannot be accused by the administration of being an oil-State captive, but he has managed to exempt his industry.

One of the most perverse parts of all of the Btu tax is that little segment in the Agriculture Department's appropriation which calls for a $17 billion increase in food stamps, to take care of the Americans newly made eligible for food stamps because of the onerous requirements of the Btu tax. Compensating them for the cost of the new taxes by making them eligible for food stamps and wards of the Government is not the middle-class tax cut that most Americans thought might be coming their way. Food stamps is a dependency, my friends, and it is being created as a means of putting together a dependent constituency.

I had a constituent named Carl from Cody, WY, who called me this week to express his deep concerns over the administration's tax package and the Btu tax, in particular.

Guess what he told me? He said that the Btu tax would cost him at least $100 more a year. He had not read the figures as to how much it would cost in Wyoming. It is more like $400 a year.

But he was concerned that he was going to have to pay $100 more a year because of the Btu tax and, in simple terms, this meant that he could not get his $6.50 haircut every 4 weeks. He said he would have to go back to having his wife cut his hair. He wanted to know why he was to be taxed out of his $6.50 haircut when the President had a $200 haircut on the runway at Los Angeles while holding up America's air traffic.

Mr. President, the administration claims absolutely repetitiously that the Btu tax is fair, that it is regionally equitable, and that its burden will be borne by all.

But those of us who have farm interests—another group seeking exemptions, which is a tolerable concept as long as exemptions are taking place—and constituents, who live 60 miles or 70 miles away from their jobs like in my State of Wyoming; those of us who have industries, which are energy-intensive; and those of us who have State governments, whose ability to manage and meet the requirements of governing that this Congress and past administrations have been willing to heap upon but not willing to pay for them, are finding that the energy tax will be devastating.

Those of us who have school boards, whose children live 40, 50 miles away from the schools, are suddenly finding that our counties and our school systems are going to be taxed to do the ordinary and necessary functions of Government.

And, guess what? As the President's people allow each exemption to take place without changing on the total level of revenue to be raised by this tax, who do you think gets to pay but our cities, our school boards, our States, and our counties?

The White House continues to say that its interest is in jobs and in education.

How is it appropriate to add to the cost of education in rural States by imposing a Btu tax? How is it that we are going to explain to these people, who are now on tight budgets because of a whole series of other obligations heaped on them by past Congresses, that they are now going to have significantly lower amounts of money to spend on education, because they must pay the Government a tax to run their school buses and to heat their schools?

One has to ask, from an administration who speaks of fairness, if it is fair to impose a tax that will cost American jobs. Six hundred thousand jobs lost is one figure that has been attributed just to the Btu tax.

The Forest Service is seeking to remove 708 jobs in the State of Wyoming because of what are called below-cost timber sales, which we now find when we put all the numbers together, means that the revenue forgone to the Government will actually increase the cost of operating the Forest Service. So, in order to find revenue to increase government, we are willing to sacrifice another 708 jobs in my State, and regions of the West will see similar kinds of results.

How is it that a President, who says he is interested in the competitive capability of America, is willing to say to Boeing, before changes were made to the tax, that he hated what Airbus was doing and he was going to stand up for them, and then willingly impose a Btu tax, which does two significant things. First, it vastly increases the cost of producing a Boeing aircraft, both in the materials they buy and in the cost of producing it; and, second, it vastly increases the costs of their customers, the U.S. airlines, in plying their trade.

The airlines, with lost billions over the last few years, are now looking at an additional $1 billion in costs because of the Btu tax. Airbus does not have to pay that tax and, therefore, can have their airplanes sold here at a lower price.

Now we see that the administration is playing around with the idea that the Btu tax can be rebated. They forget, of course, that they have an obligation which America has willingly undertaken over the years, called GATT, the General Agreement on Tariffs and Trade. The Btu tax is not rebatable under GATT in the way in which they seek to impose the tax. So how does that do anything for American who want jobs?

In the other body today, the administration will be trying to bring the tax package and the Btu tax to a vote. They are trying to placate concerned Democrats over there with promises, first, of "no compromise."

Now, we have: "The White House gives grounds on energy tax."

They have agreed to modifications of the tax in the hope that they will have created or discovered enough new Fausts who are willing to sell their souls to the Devil to create a moment's relief from the onerous antibusiness, anticonsumer, anticompetitive policies of this administration.

It is about time they realized that the tax will hurt industrial competitiveness. But it is even more time to realize that the proposed solutions will only wreak more havoc. Let me explain.

The first solution included in the bill by the Ways and Means Committee would add an imputed Btu tax on imported high-energy products. Does anybody hear echoes of the 1930's and Smoot-Hawley and the type of policies that wrecked the economy of the whole world, to say nothing of the United States? The import tax is the same type of protectionist measure that took us into the Depression, and it thoroughly discredits the President's own speech at American University where he said he was for free, fair, and open trade, and world competitiveness. By imposing an import fee he is basically saying that since we must tax our own products we must try to find some way to also do it to our trading partners, even though it may be prohibited by GATT.

Now, the administration is trying to find a way to propose a rebate on the Btu tax at the border so America's industries, which are rendered uncompetitive by these taxes, will find some relief.

I asked the former chairman of the Finance Committee, now Secretary of the Treasury, during a hearing in the Finance Committee, if it was not true that the Common Market provided up to a 20-percent subsidy on energy taxes and costs to energy-consumptive indus-

tries in their country? He knew nothing of it. But the fact is, that the Common Market does provide such subsidies.

So, now, with this proposal to rebate taxes at the border, we have a solution that will not readily solve the problem, because even the administration and the Joint Committee on Taxation have acknowledged that a border adjustment may well violate our GATT obligations and could be challenged by our trading partners. The 1979 GATT subsidies code expressly states that a rebate at the border on an input not physically incorporated into an exported good is an export subsidy.

What kind of administration is this that says it is interested in the competitiveness of American products, and in free and fair trade, who willingly finds ways to transgress this Nation's obligations under GATT.

The GATT interpretation of the physical incorporation test, as well as America's own practice, suggest that energy consumed in the production of a good is not physically incorporated into a good and, therefore, is an illegal subsidy. To be border adjustable, the tax would have to be on the product and not on the energy input into it. But to do that, guess what, America's consumers would be able to see the level of taxation that this administration was forcing them to pay, so they have gone to extraordinary lengths to see to it that it is not visible to the consumers.

It concerns me that the Clinton Administration is playing Russian roulette with trade policies in order to salvage a bad tax that ought to be defeated. It will be my hope and plan to ask for a study that will provide us with what I hope to be an objective analysis of the issue before we make a mistake that will have serious and probably irreparable international consequences.

But I stand here this morning to say to my colleagues in the Senate: Beware. The American people are well aware of the emptiness of the promises that the administration proposed between the time of its campaign and since ruling. "We will never yield on the issues of entitlements. We will not yield on the issue of the Btu tax." Today we have, "White House gives ground on the Btu tax."

The American people are used to and aware of the necessity to trust their Government. But where do they find trust? Having been promised a middle-class tax cut, now even those with incomes of $20,000 will have serious increases in their taxes. When the President, having promised the middle class a tax cut in order to get elected confronts the middle class in Los Angeles, the first thing he says is Well, you will have to wait until sometime in the next 4 years in order to get such relief. Why should they believe that? Where is the basis for trust? If the Btu tax is enacted, make no mistake, it is a permanent tax. The slushy compromise with regard to entitlements has made it clear that under no set of circumstances will anybody ever deal with the growth. We have only to look at the behavior of these Congresses with regard to unemployment to understand why. We say: "This is the last"—"By golly, this is the last"—"This is certainly the last extension of unemployment benefits." Yet we extend them again.

We have only to look at the courage of a Congress that has passed Gramm-Rudman with its spending caps to realize that every time we reached the point whereby we would have to make uniform, across-the-board cuts, we ducked from doing so.

So, what we are left with are taxes that are permanent and cuts which are nonexistent. We have a serious problem that is being laid in front of us. It is not deficit reduction—read the administration's own figures. For a year or two, the size of the deficit declines, but it does not diminish and the debt increases by $1.5 trillion over the next 4 years. That is certainly not debt reduction.

I would like to bring out one little known fact about the Btu tax. Did you know that this mysteriously evil tax is indexed for inflation? This is unique since the only explicit inflation adjustments in the Tax Code are designed to protect the taxpayer from the effects of inflation—although even these have been curtailed, in part, by this administration—not hurt them, like the Btu tax.

Americans ought to take a look at what this means—it means the tax automatically increases every single year without Government intervention. We will have to intervene to keep the tax from growing. It is devious, what has taken place. I conclude by saying that the Btu tax is bad economics, it is bad tax policy, and it is bad energy policy.

A last little bit on the energy policy. It was said that the Btu tax was imposed, partly in response to the Vice President's total commitment to the environmental movement, as a substitute, for a carbon tax. But the administration tried to pray to too many gods when they designed this tax. In order for the Pacific Northwest, with all its hydroelectric power, to avoid becoming the American manufacturing center of the continent, the Btu content of water was taxed for heaven's sakes. And, in order to satisfy the inordinate demands of the Senator from West Virginia and high-sulfur coal, we doubled the tax rate of Btu in oil over coal. So now you are taxing water, which does not have a Btu content, and you say to high sulfur coal, that it is not as serious an environmental problem as earlier claimed. And what happened to our energy strategy which we just passed, with the President's blessing. As a candidate, the President said, along with others, that the Energy Policy Act was perhaps the most far-reaching piece of policy that this Congress had passed in many years. We worked hard last year to craft an energy strategy that was fuel-neutral. Now the Btu tax picks a Government fuel and have farther impeded the Energy Act by granting new exemptions that in order to get some more votes in the House and to create new little crowds of Fausts that sit over there.

But the energy policy we crafted last year is distorted because there are now Government-subsidized fuels, there are ignored consequences of the use of high-sulfur coal, there are penalties on the use of American oil which end up being penalties that create a greater dependence on overseas oil, and there is decreased reliability and availability of low-carbon fuels such as nuclear and hydro.

The Btu tax is an environmental mess, Mr. President, as well as an economic mess. This tax has not been well thought out. This program is totally political. And the fact that it is totally political can be seen in the fact that you can buy off the Speaker of the House and the majority leader and other important people, by providing more and more and more exemptions to the onerous provisions of this tax. The Administration has accused others of being special interests, while absolutely kowtowing to the interests whose votes might be necessary to get this tax package passed.

It ill-becomes the President of the United States or his spokesman to call those folks special interests when they absolutely cater to them by the hour in order to find the Faust to pass this new package.

Mr. President, I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

THREAT TO THE SOCIAL SECURITY SYSTEM

Mr. RIEGLE. Mr. President, I want to address the threat being posed to the Social Security system by the budget package that has been put forward by some colleagues, particularly the Senator from Oklahoma [Mr. BOREN]. I say that at the outset so that can be known to anyone in his office and other places interested in this particular issue.

I will also, at the conclusion of my remarks on that, make a comment or two about the remarks of the Senator from Wyoming, which I listened to with great interest.

But I want to, first, of all, address this new budget package that we are still analyzing—but we have analyzed it enough—the one being offered by the

Senator from Oklahoma. I find the part in there that has to do with cuts in the Social Security COLA adjustments to be very damaging and unfair and I think also, in the form in which they have been presented, would actually violate the budget rules that we have in the Senate.

I want to go though it in some detail because I do not think the press yet or the public understands the threat posed to Social Security by that aspect of this program that has been put forward. I want to lay it out here because I intend to do everything I can to confront it directly and to not only make sure everybody understands what it is designed to do and would do, but that the battle lines are drawn right now on this issue, so nobody is under any illusions as to what may be done here.

When you look at the element of the plan that has been put forward, the bulk of the program cuts really are going to be on the backs of older Americans and on those people down the income scale in our country, including those in poverty who are struggling every day just to make ends meet.

Most of those proposals are ones that we have previously dealt with in the Senate and which have been rejected by a series of record votes. In many instances, they were votes on amendments that I myself offered back in the early eighties when the Reagan administration was trying to cut Social Security benefits at that time.

But to be very specific about it, the proposal that has been put forward would cut the cost-of-living adjustments for Social Security recipients and those COLA cuts, as we call them, the cost-of-living adjustments, the cuts in those would be imposed every year for 5 years in a row. That would result in a permanent, cumulative loss of real income for many of our low- and middle-income Social Security recipients.

A lot of these people today are just able to make ends meet. It is not easy to get by in old age in America. Things can be very expensive, whether we are talking about prescription drugs or we are talking about utility bills or we are talking about transportation needs, housing needs, food, the rest of the essentials that everybody has to have.

The cost-of-living adjustment on Social Security does not give any senior citizen on Social Security extra buying power. That is not what it is. It is designed to come in and make up for buying power that inflation has taken away from them over the last year.

We know, for example, that, if somebody is getting a modest Social Security payment, which they have paid for and which they have earned by their work history, inflation takes away some of the buying power of that money. We have built in an adjustment the next year to come in and replace that lost buying power so that the person is not sliding backward, sliding either into poverty or sliding toward poverty.

So the cost-of-living adjustment does not provide any extra buying power. It is there to replace buying power that has been taken away by inflation, just to hold the senior citizen even with inflation so that their benefits are preserved in real terms so that they can pay their bills and meet their basic living expenses.

The design of this program is very diabolical because it wants to come in and shave down the cost-of-living increase for senior citizens and keep it in place each year for 5 years so it is a piling-up effect. But then the effort is to take and use the money that, in effect, will not be spent on the cost-of-living adjustment on Social Security and have that available for other purposes totally unrelated to Social Security.

So, in effect, it is squeezing down the seniors in order to have that money, in a budget sense, available to pay for other things that have nothing to do with Social Security and are outside the Social Security system.

A related aspect of this that makes it even more troubling, and I think unfair and just misconceived, is the fact that the Social Security system today is running a big surplus. That is not what is causing our Federal deficit. In fact, we will add just this year to the Social Security surplus for retirement benefits, over $53 billion. In fact, at the end of this year, we will have a total from the addition of this year of surplus, and prior years' surplus, we will have in that fund a surplus of $350 billion. So that is not causing the Federal deficit.

In fact, we have already acted as a body to take Social Security out of the Federal budget directly so that people cannot try and loot the Social Security system to pay for other things, which is a practice that had gone on around here for many years.

So we have already recognized in our own prior votes and legal actions the need to protect Social Security from exactly this kind of raid. But that is what is being proposed here: To shave down the Social Security benefits in terms of the cost-of-living adjustments year by year and have that money available to put against things that have nothing to do with Social Security.

When people understand this, and I am going to make sure people do understand it because we are not going to have that done to protect some industry in this country—whether it is in the energy area, or to protect some other part of the Federal budget having nothing to do with Social Security—we are not going to tolerate a raid on the Social Security trust fund for that purpose, in effect, a theft of the cost-of-living adjustment that just holds people harmless against inflation.

I know it is very tempting for people to go and get that money especially if they can do it in a way that is hard to trace. But the cold fact is it is not going to be done without having to be done out here in the cold light of day and with votes on it every inch of the way.

I suspect that when the public understands what is going to be proposed there, they are not going to like it very much, and I think they will have something to say about it. I suspect as well—and this is just a surmise because I do not purport to read his mind on this issue, and he may have already addressed it, but I saw Ross Perot on television this morning. My guess is—just a guess—that if he sees what is happening here, namely that the Social Security fund is being used for purposes other than Social Security by shaving down the benefit structure to bloat the surplus to be able to apply that against other areas of Federal spending, my guess is—and it is just a guess—that he would blow the whistle on that. He would say that the Social Security funds ought to be kept separate and apart and there ought to be no effort made through a budget package or any other way to somehow go in and take something out of the Social Security system and allow it in some fashion to be used in some other part of the Federal budget or to cover as a budget offset some other area of Federal spending. The American people are not going to buy it either because, I repeat, the Social Security system is not what is creating the Federal deficit. That is one of the few funds we have that is in surplus, and the surplus is building up.

Now, just so everybody has it clearly in mind, this proposal places the brunt of spending reductions on senior citizens and on people with disabilities and low-income children and foster care, which is what the entitlement caps would do. The non-Social Security programs would be limited to growth at the rate of inflation plus the population growth but at a declining scale over time.

Now, somebody said earlier, the previous speaker as a matter of fact said something about food stamps and how bad food stamps are: food stamps create a "dependent constituency" were the words used. Not by choice. We have food stamps because people need to eat. You need to eat in this country to stay alive. There are three things you need. You need oxygen; you need water; and you need food. If you do not have a job or you do not have an income, you do not have food. People starve to death.

And it is true in this country right now, we have more people on food stamps than we have ever had in our country. That is because we have a sick economy and not enough jobs. Every time there is an advertisement around the country that a hotel or something is opening up, or a fast food joint is opening up and they indicate they have 20 or 30 jobs—there are not

many of those announcements, frankly, but when they happen—2,000, 3,000 people show up seeking those jobs. There are not enough jobs for our people now.

So if you cannot get a job and you have no income and you have to feed yourself and you have to feed your family, how do you do that in America? You have to turn, unfortunately, either to public or private charity if you cannot find work. And we have millions of people in this country right now who want to work but cannot find work, up and down the talent scale, up and down the professional résumé scale.

So food stamps are a necessity because we do not want people to starve to death in America. It is a pretty basic issue. It is not the question of having a bleeding heart. It is a question of the fact that people need to eat to live. And I daresay, unless there is a Senator here who is on a diet in such a way that they are going to pass up the lunch hour today, every Senator here already has or will shortly meander off to a lunchroom somewhere and have lunch because Senators, just like every other citizen, have to eat periodically during the day, just like everybody in our country.

And so to say, when you have somebody in our society that has been ground down to the point that the only way they are actually able to provide for their nutritional needs, the food they need to live is obtained through food stamps, I think it is a terrible commentary on what is happening in our economic system. I would like to see everybody off food stamps.

Mr. WALLOP. Will the Senator yield for a question?

Mr. RIEGLE. Just very briefly, yes.

Mr. WALLOP. The question that the Senator from Wyoming raised was not that food stamps were a necessity, but that they were a necessity now created by the effects of the Btu tax which will increase by several millions of people those eligible for food stamps, so that these people can have the very basic necessities of which the Senator speaks, and so that they may eat because they have been impoverished by the effects of the Btu tax.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. RIEGLE. I appreciate the point the Senator made earlier and the point he makes now, and we can bring up any other issue, such as the Btu tax or anything else that comes into the picture.

I am making a different point. I am making a point about the fact that we have all these people in this country today, every bit as important and as worthy as the Senator and I or anybody else is, who want to live and who want to have some improving aspect to their lives. If they have families, they want to support their families, have their families well cared for, in safe settings, with health care and the basic things we all want and need for our families.

When you bring it down to food stamps, literally the ability of a person once, twice, three times a day to be able just to have the food they need to stay alive, I guess I react in a sense that that is so basic and so fundamental. I guess I object partly to the notion of a "dependent constituency" because I see a lot of these folks—and I am sure the Senator does as well, a certain number in the State of Wyoming—and I have not found anybody yet in all the time I have been in public life that is on food stamps who does not want to get off food stamps. Most people find it a humiliating circumstance to be reduced to a point where they are in that situation and they want virtually more than anything else to be able to escape from it, have their kids escape from it and get up on a higher economic rung of the ladder so that they are able to provide for themselves without having to go through the process of trying to survive on food stamps.

Mr. WALLOP. If the Senator will yield again briefly.

Mr. RIEGLE. Of course.

Mr. WALLOP. The Senator makes exactly my point. Of course people do not want to be on food stamps. One of the perverse consequences of the Btu tax that has been recognized by the administration in their request for greater funding for food stamps is that there will be an increased number of Americans who will be made dependent upon them by the effects of the Btu tax. I do not quarrel with the Senator that people want to be off food stamps. The question is, Why should we have a tax policy that puts more people on them?

Mr. RIEGLE. I would say to the Senator I think our problem here is that we have a new President, who has been in office about 4 months, who did not create these problems. I think they have been building for many, many years.

I am not even going to take the time right now to try to sort of enter into a debate as to who is more responsible politically, and so forth and so on. We can get off into that subject.

But the fact is America is in serious economic trouble. It has been building up for a long time. You see it in our trade statistics. You see it in a lot of other things. We had a trade deficit in March in excess of $10 billion for 1 month. In 31 days, we had over $10 billion drained out of this country through the trade account and over $5 billion went to Japan. And there is a lot of trade cheating involved in the way Japan plays the game, keeping their market closed and selling oftentimes below cost and through keiretsu, interlocking relationships, here in this country. So there is all kinds of damage being done.

But if you come back to the plan that I have risen to speak about now, the plan offered by the Senator from Oklahoma, that attacks Social Security in the name of solving our deficit problem, that is just not a fair way to come at it. Our deficit problem is not caused by Social Security.

And to come and take it out of the hides of people on Social Security, who have gone through their work life, who have paid into the system, who now have that as part of the income stream they have to depend upon to survive and maintain some reasonable standard of living for themselves, to come along and say, well, now we are going to reduce your annual cost-of-living adjustment, we are not going to enable you any longer to stay even with inflation, even though we are building up a huge surplus in the Social Security fund, we are going to take that away from the seniors so we do not have to come over here and ask somebody else to chip in and do their fair share of what needs to be done to get this budget in order and get this deficit down.

So it is an effort to protect certain classes of society and certain economic interests by saying, well, let us just come and take it out of the hides of the senior citizens. Let us just scale down that cost-of-living adjustment for those seniors out there and, you know, they will find some way to make do.

I think the cost-of-living adjustment for senior citizens is, if anything, being based on the CIP, many times lower than the actual inflation rate that seniors are experiencing.

With or without the Btu tax, energy costs have been rising, and housing, and costs have been going up in the supplemental health insurance policies for the seniors who try to have those in place. Those have been going up. The Medicare deductibles have been going up. Prescription drug costs have been going up. Food costs have been going up. Clothing costs are going up. Senior citizens today are under tremendous pressure as virtually all American families are who do not have huge amounts of income or assets.

Mr. LOTT. Madam President, will the Senator yield to me so that I may have an opportunity to agree with him on these points?

Mr. RIEGLE. I just yielded to the Senator from Wyoming because I was making reference to what he was saying. Let me do that at the end of my remarks.

Mr. LOTT. Do not forget to yield.

Mr. RIEGLE. I will not forget my friend from Mississippi. I will not want to, I am sure he would remind me if I did want to. But I do not want to.

But in any event, we are in a situation here where the plan being proposed says, look, we realize Social Security is not creating the problem. There is a big surplus in the fund. The fund is getting larger. We know the seniors need the cost-of-living protection because otherwise many will be

sliding back into poverty. But let us take away from them anyway, even though they have paid for it, even though they have worked for it with their earning history. Take it away anyway, and we will have that money. It is several tens of billions of dollars. We will be able to say we have that money to do other things with. We will do other things with that. Maybe we will help the energy industry in certain ways. Maybe we will not have as heavy a tax burden on the business side or high-income individuals. There are a lot of ways you can end up through this budget process we use allowing that so-called saving in Social Security to be applied to other things. That is what is going on here.

The question is, Do you feed the seniors into the meat grinder here in the name of reducing the Federal budget deficit and reducing spending in order to not have to do it somewhere else where the problem is really coming from? That is what is happening.

So that is why we voted on this before. That is why that proposal when it comes is subject to a budget point of order. We took Social Security off budget for the purpose of making it clear that Social Security was not part of the deficit problem but, in fact, is being used to hide the huge size of the deficit.

The real deficit is higher than we say it is because we are using the Social Security surplus to hide the true cost in the deficit. But cutting the benefits and inflating the surplus in Social Security actually leads us away from the truth. It is part of the whole illusion process that we have had going on for too long around here. That is one of the reasons why the last administration from my view was tossed out. It was partly the failure of the economic plan and not enough jobs in the country, but also all of the gimmicks and the misleading treatment of the Federal budget deficit to make it look like it was going down when it was going up. People know it is going up. They want that stopped.

I will conclude very shortly and yield to my friend from Mississippi by saying the seniors of this country through Social Security are not causing the budget problem. And they should not be unfairly targeted as they have been by this new proposal that has been put out by the Senator from Missouri and the Senator from Oklahoma in the name of deficit reduction.

I am all for any plan that they can develop that reduces the deficit. I would like to see one, by the way, that is sort of zeroing in on some of the constituency groups, maybe where they come from, that would have to eat some of the pain of the plan.

But to just try to spread a large part of it on the senior citizens across the country when they have not caused the problem, let me tell you something: It is not fair. There is no intellectual or logical justification for it, and I do not want there to be anyone under the misapprehension that they are going to get away with it. They did not get away with it in the early eighties when that was tried when Reagan was President. He tried at the height of his power to come in, shave down Social Security, chisel down the benefits at different times. We had a lot of votes around here on that.

I would remind some of my colleagues on the other side of the aisle that there were some Senators that served on that side of the aisle, between 1980 and 1986, that voted for a lot of those Social Security cuts. They are not here anymore. When 1986 came along the ones who were elected in 1980—the first time the people of their States had a chance to replace them which was 6 years later, in 1986—almost to a person they went down the drain. They went down the drain because they had come in to cut Social Security when there was no justification for it in order to try to take care of other problems having nothing to do with Social Security. This is the same thing all over again.

So keep your hands off the Social Security trust fund. I say that to colleagues on both sides of the aisle. Do not come in here with proposals to cut Social Security benefits when the fund is in surplus, and the surplus is growing in order to turn around and provide some help or some relief for somebody else out there that you may happen to feel strongly about, or that may be an important interest in your State.

That is not going to work. You are going to have to find another target besides the seniors, because that is just not going to fly and should not fly. So anybody that has that in mind better be sure they have 60 votes because that is what it's going to take, to have to override a budget point of order which I will offer on the floor if no one else does to be able to take and violate the Budget Act in that fashion and at the same time violate common sense.

Let me yield.

Mr. LOTT. I thank the distinguished Senator for yielding to me, Madam President, for a brief comment and a question.

I certainly agree with the Senator from Michigan that limiting COLA's of Social Security recipients who make over $600 a month is the wrong approach for dealing with the budget problems we are now confronting. These are people with very limited resources.

The Senator from Michigan is absolutely right. Social Security is not causing the deficit. It is a trust fund. Social Security recipients should not be asked to pay.

So I oppose the proposal that has been put forward by the Senator from Oklahoma and the Senator from Missouri, for that reason primarily. I think they should be commended for their efforts. There are a lot of things they are trying to do that I agree with.

I support their efforts to take out some of the proposed taxes, including the Btu tax. But, I still think they have too many taxes in their proposal. I do think we need to get some control on entitlements and I support their efforts toward that goal. When I say that, I do not include Social Security.

Social Security has a separate trust fund. It was paid into. Recipients worked most all of their life, some are disabled, and many are depending on this to be able to have minimal sustenance.

So I certainly agree with the Senator on his position. I will support him on a point of order on this item if he makes it when this matter comes before us.

I would like to ask the Senator from Michigan—and solicit his support in joining me—to also knock out a provision that is in the Clinton package. It was also in the budget resolution and it would do essentially the same thing as the COLA reduction. It would attack the seniors by increasing taxes on retirees down to $25,000 for an individual, $32,000 for a couple. This provision would raise the marginal tax rate on their benefits by 70 percent. It will increase the taxable portion of their benefits from 50 percent to 85 percent. An individual earning $25,000 is not a wealthy individual. Somebody came up with a harebrained idea—let us raise taxes on senior citizens, Social Security recipients. But, under this proposal, this money would not go to the trust fund.

No. That money would be moved over into the general account to pay for what I do not know—maybe some good things to help pay for Medicare. But, it would be the first time that we allowed taxes to be increased, the trust fund to in effect be attacked, and then used the money to pay for other programs.

I hope the Senator from Michigan will join me in opposing that blatantly unfair proposal also.

Mr. RIEGLE. Madam President, let me say to the Senator that, as a Member of the Finance Committee, which I am, that issue is at the top of my list. It is a complex issue because it is tied together with a lot of other things. I am troubled about it as well. There is another wrinkle, and that is that at any level of taxation, even if that level is to be shifted, what happens to the amount of money that is supposed to be saved? Is that going to slosh on over into the rest of the budget to be spent on other things, or is it to be credited back to the Social Security System, which it should be; if you are going to have a scheme like that, it ought to be credited back over to the system, so that the resources are not leaking away.

So you have, really, kind of a double jeopardy involved there. So I say to the

Senator that he and I share a concern in that area. As a matter of fact, as we speak, I am working on the problem.

Mr. LOTT. $32 billion is not an insignificant amount of money.

Mr. RIEGLE. Over 5 years; that is right.

Mr. LOTT. We should not have that tax increase at all. I hope the Senator will work very hard in the Finance Committee to knock that out. If he is not successful, I assure him that somebody will try; if not somebody else, I will offer an amendment to knock that totally out when it gets before the Senate, and I will be looking for the Senator's help when we make that effort.

Mr. RIEGLE. I may want to talk to the Senator about what the offset will be. When we knock these things out, we have to pay for them, and I will be interested to see what the offsets will be. We can put our heads together.

I yield the floor.

Mr. MURKOWSKI. Madam President, I think it is interesting to note——

Mr. WALLOP. Will the Senator yield for half a second?

Mr. MURKOWSKI. I yield, without losing my right to the floor.

Mr. WALLOP. Madam President, I want to say this, before both Senators who have just addressed the Senate leave the floor: CBO has done an estimate, and they say that any Social Security recipient who worked his whole life receives about $650. The cost of the COLA is $12, $13 a year, or $1 per month. The Btu tax will cost that same citizen $17 a month. I wanted to ask, what ends up being fair?

According to the administration's own figures, if you make $800 a month, it will cost $4 extra a month. CBO and the Joint Tax Commission said that a number of Social Security recipients—the largest number of recipients—will have to pay significantly more in the Btu tax than any of the proposals that are out there now. And the Joint Tax Commission, looking at the figures, said that, by far, the most progressive solution on the table today—I do not agree with all of the provisions of the Danforth-Boren proposal, but the most progressive proposition on the table today, especially in terms of seniors—was not the President's proposal but the Danforth-Boren proposal.

THE PRESIDENT'S PROPOSAL

Mr. MURKOWSKI. Madam President, I think it is important to reflect on the discussion that has been taking place on the floor because it represents a sequence; a pattern. To examine that pattern, I think we have to go back to the administration's first proposal before this body, so-called stimulus package. It appealed to emotion. We were called upon to "make a sacrifice" as Americans. Our President asked us to "invest in America" and, clearly, that is a call that should not be taken lightly.

But as a consequence of the extended debate in this body, the American people began to understand what that "sacrifice" and "investment" meant. It was synonymous with increasing debt, because the President's proposal for paying for the stimulus plan was simply to add to the already existing deficit anticipated to be somewhere over $300 billion. His proposal was no different than working a bum check on a checking account and hoping that somehow, somebody else will cover your bad check.

That is what the American people were asked to do with that stimulus plan—to make an expenditure of $16 billion, without having any way to pay for it, except by adding to the debt. And the American people have understood that, and they have responded accordingly by saying: Cut spending.

Yet, we have our President coming along with this current message, the budget message, which suggests that he is on a deficit cutting program. But, in reality, his proposal never brings the yearly deficit below $200 billion. If you extend that proposal over 5 years, what he has done is increase the accumulated debt of this country from $4.4 to $5.4 trillion. So in 5 years, by the time we have accomplished his plan, we will have increased our accumulated debt by $1 trillion.

That is where we are. Make no mistake about it. That is the true reality, if you look at his budget and project where the debt is at the end of 5 years; it goes from $4.4 to $5.4 trillion. One-seventh of our current budget is interest on the debt. There is not one significant effort to cut real spending, except by cutting defense and laying off soldiers.

These are the hard, cold facts, Madam President. The next issue that has been discussed here on the floor this morning is the issue before the House, budget reconciliation legislation, and, more particularly, the proposed $72 billion Btu tax.

That tax is a charade, Madam President. The tax will not generate $72 billion in new revenues even if it passes. Do you know why? Because deals have been made at the White House, and deals have been made at the Treasury Department, reducing or eliminating certain industries that ordinarily would be taxed. If you are in the gas business, and if you are injecting gas to recover oil, you probably got an exemption. Exemptions have been granted in the petrochemical industries.

So we have seen a series of efforts made by well-meaning special interest groups to get excluded from the application of the Btu tax. Clearly, the stimulus plan and the Btu tax were not too well thought out.

Rather curiously, if one looks at the Btu tax, he finds that there was a proposal, initially, that 26 cents per million Btu would be applicable on the production of oil, gas, coal, hydro, and nuclear. That sounds equitable. But then they found they needed some more revenue, so they put a surtax of 34 cents on oil. Basically, that is moving oil into the category of a sin tax. If you are in the Northwest or Northeast, or in my State of Alaska, where it is cold and you need heat, and your only alternative is to burn oil or chop wood, you are penalized. That was the initial proposal.

Then they got some feedback that suggested that the plan put too much of a burden on people who had no other alternative. So they took the surtax off of heating oil. That is the sequence of the manner in which these proposals have been presented to the American people.

What does it do to international competitiveness, to our industries that have to pass on this higher cost of fuel oil? If they are exporting products into the market of the Pacific rim, or European markets, these additional costs due to taxes will not be borne by the competitors; they will only be borne by our side.

What does it do to our airline industry, that is struggling to have to pay an additional tax as a cost of operations? We have already seen the difficulties in our domestic airline system.

Our trucking system. The cost is going to be borne by every single segment of American industry and every single taxpayer. Do you know what the alternative to this is, and what the White House simply will not acknowledge? The alternative is not to raise taxes from energy use, but simply to cut Federal programs that are unneeded. For some reason, that does not seem to permeate the minds of those within the administration.

So what has happened, Madam President, is that we are here today debating a series of issues—stimulus, budget, Btu tax—all of which evidence shows were poorly thought out, poorly presented to the American people, and clearly did not consider the other more obvious alternative of cutting Federal spending, which is what the people of this country want most of all. And that is what the people of this country want.

CIVIL RIGHTS

Mr. MURKOWSKI. Briefly, Madam President, I would like to refer to another item. Earlier today the junior Senator from Washington introduced, with four other Members of this body, legislation to repeal the provision that I worked very hard to include in the Civil Rights Act of 1991 that passed on November 5, 1991. It passed this body by a vote of 73 to 22.

I must say I have the deepest respect for the junior Senator from Washington, but the arguments used in the

opening statement clearly appeal to emotion rather than fact. The suggestion by the Senator from Washington that thousands of people are being denied their civil rights is not accurate, and the reality is that the ex post facto amendment which I offered and, as I indicated, passed this body 73 go 22, provides fair protection against frivolous retroactive litigation without weakening the rights of any workers to initiate lawsuits based on the 1991 Civil Rights Act. No workers of any race have been exempted from the 1991 Civil Rights Act, and certainly many Senators working on civil rights legislation, including, I am pleased to say, the senior Senator from Massachusetts, who supported adoption of the amendment during the consideration of the civil rights bill, could not have supported an amendment that exempted any individual from the protections of the Civil Rights Act.

In 1971, Madam President, Wards Cove, which is a fish cannery in Ketchikan, a community I happened to have grown up in, employed more minority workers in both skilled and unskilled positions than were available in the local population. Despite this fact, Wards Cove was sued for violating laws governing unintentional discrimination because 20 percent of the skilled workers were minorities while 50 percent of the unskilled workers were minorities. Plaintiffs cited separate eating and sleeping facilities as evidence of discrimination even though both arrangements were mandated by the collective bargaining agreement that the local, minority-run union sought and negotiated with Wards Cove. The class action lawsuit against Wards Cove was originally filed in 1974, and since then they have been in and out of the courts some eight times. Every court has found Wards Cove to be not in violation of the antidiscrimination laws.

The amendment that was passed by this body simply protects the Ketchikan cannery from having to go to court yet again to prove the 1991 law is not different in any significant way from the 1971 standard under which the 1970 practices have been judged to be free of discrimination. It is of no use, except to the lawyers who are trying to collect a fee by breathing life into this old lawsuit, to continue to relitigate the situation 20 years ago at this remote cannery location. It is time to focus our energies on protecting the civil rights of people currently working at the cannery as well as other businesses like it.

This is precisely what the 1991 civil rights bill does, and my amendment in no way detracts from that objective. My provision specifically does not prevent any employee, including Wards Cove employees, from suing under the 1991 Civil Rights Act. My amendment, which passed, does not exempt Wards Cove's current hiring and promotion practices from being judged by the standards of the 1991 Civil Rights Act. My amendment does provide Wards Cove with relief from being forced into court again for the ninth time on an allegation made in 1974, 19 years and $2 million in legal fees ago.

CHRONOLOGY OF THE WARDS COVE CASES

The 1971 salmon season: Plaintiff argues that Wards Cove violated antidiscrimination laws.

June 27, 1972: Complaint filed with EEOC.

March 20, 1974: Original lawsuit filed in district court, was later dismissed by the district court on technical grounds.

March 31, 1982: Ninth circuit reinstates the lawsuit.

November 4, 1983: District court finds that Wards Cove did not discriminate either intentionally or unintentionally.

The court described the employer's burden of proof and the legal standard in a disparate impact case stating where.

The plaintiff has made out a prima facie case * * * the burden of proof shifts to the defendant to show that the practice is justified by "business necessity."

The court rejected plaintiffs' argument that the existence of a higher percentage of minorities in unskilled jobs proved discrimination. The court's findings of fact state:

The racial composition of [unskilled] workers * * * is predominately nonwhite. That is so because [under the union contract] Local 37 is the primary source of [unskilled] workers and the membership and leadership of Local 37 is predominately Filipino.

The court exonerated Wards Cove of any charge of intentional or unintentional discrimination.

August 16, 1985: Ninth circuit sustained the district court opinion. Ninth circuit interpreted the Griggs Standard to mean that the burden of proof shifted to the employer once the employee established a prima facie case of unintentional discrimination based on disparate impact. And held that Wards Cove met the burden of proof and that the plaintiff's case was without merit.

February 23, 1987: Ninth circuit en banc concurs with the district court that the defendant has the burden of proof in an impact case, and held that disparate impact analysis is applicable to subjective employment practices. The case was sent back to the panel that originally heard the appeal.

September 2, 1987: The ninth circuit panel maintained its position that the employer has the ultimate burden of proof in an impact case. The court cited Griggs in stating: "The employer must demonstrate the "manifest relationship" between the challenged practice and job performance." The court also stated that statistics alone could be sufficient to support an inference of discrimination and remanded to the lower district court.

June 5, 1989: Supreme Court reversed the appeals court finding that statistics alone could not establish a prima facie case of disparate impact. The Court also ruled that the employer's burden in a disparate impact case is the burden of production, not the burden of persuasion. Remanded to district court.

January 29, 1991: District court determines that Wards Cove hired individuals for the at-issue jobs based upon their qualifications and not upon their race. The court found no reason or basis for altering any of its findings of fact or conclusions of law set forth in the 1983 decision.

Madam President, I ask unanimous consent that a compilation of the tally sheet of the vote taken on November 5, 1991, which passed 73 to 22, be printed in the RECORD.

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

[Rollcall Vote No. 244 Leg.]

YEAS—73

Baucus, Bentsen, Biden, Bond, Boren, Breaux, Bryan, Bumpers, Burns, Byrd, Chafee, Cochran, Cohen, Craig, D'Amato, Danforth, Daschle, Dodd, Dole, Domenici, Durenberger, Exon, Ford, Fowler, Garn, Glenn, Gore, Gorton, Graham, Gramm, Grassley, Hatfield, Heflin, Helms, Hollings, Jeffords, Johnston, Kassebaum, Kasten, Kennedy, Kerry, Kohl, Levin, Lieberman, Lott, Lugar, Mack, McCain, McConnell, Metzenbaum, Mitchell, Moynihan, Murkowski, Nunn, Packwood, Pell, Pressler, Pryor, Reid, Riegle, Rockefeller, Roth, Rudman, Sasser, Seymour, Shelby, Simpson, Specter, Stevens, Symms, Thurmond, Wallop, Warner.

NAYS—22

Adams, Akaka, Bingaman, Bradley, Brown, Burdick, Coats, Conrad, DeConcini, Dixon, Harkin, Inouye, Lautenberg, Leahy, Mikulski, Nickles, Robb, Sanford, Sarbanes, Simon, Smith, Wellstone.

NOT VOTING—5

Cranston, Hatch, Kerrey, Wirth, Wofford.

So the resolution (S. Res. 214) as amended, was agreed to.

Mr. MURKOWSKI. Madam President, I encourage my colleagues to refrain from signing on to the proposed bill by the Senator from Washington until they have viewed the merits of this case. Everybody wants to stand up for civil rights, but this is not an issue of whether or not people's civil rights are protected; every court that has looked at the facts in the Wards Cove case has found no discrimination. It's a matter of wrongful retroactive application of law. So far, six Federal circuit courts have ruled that the 1991 civil rights law does not apply retroactively. The Supreme Court has agreed to review two of those findings.

I encourage my colleagues to refrain from signing on to the bill introduced earlier today; wait to see what the Supreme Court rules, and judge this legislation by the facts, not the feelings.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

THE BTU TAX

Mr. LOTT. Madam President, I do want to make clear again one of the things I said a while go about the distinguished Senator from Oklahoma, Senator BOREN, and Senator DANFORTH, from Missouri, and others, for the efforts they are making. They are trying to find an alternative that is an improvement over the Clinton tax package, and I commend them for it. I do not think they are there yet. I want them to keep working.

I understand the Senator from Oklahoma will be here in a few minutes to, in effect, defend himself on some of the questions that have been raised about his package. I want to join him in sending a message to the colleagues in the other body that will be voting on this tax issue today. I want to caution them, in fact warn them, that, yes, they are walking the plank to no avail. Yes, they are going to be voting to raise their constituents' taxes in many ways, specifically on this Btu energy tax, and they can rest assured the Senate is not going to do that.

So I say to my old buddies from the other body that I served with for 16 years, where I had the pleasure of being the whip and counting votes, get ready because you are going out there and we are going to leave you out there. Go ahead and count. The Senate is not going to buy this deal for a lot of reasons.

One of the reasons is because of the impact on seniors that the distinguished Senator from Michigan was talking about. Senior citizens, like my blessed mother in Pascagoula, MS, are going to be hit by this tax package that the House is going to be voting on today and the Senate is going to be voting on some time in June. Thank goodness we are going to get home next week and listen to the folks from the States of Illinois, Missouri, Kansas, and Mississippi. They are going to say, "You people are out of your mind in what you are doing."

Let me tell what this tax bill will do to my mother. She will probably have to pay higher Social Security taxes to get this $32 billion they are talking about taking from seniors—and not to put in the trust fund; oh, no, we are going to move it over here. We are going to spend it in the deep, dark black home of the general Treasury. It will be gone, never to be seen again. We will be taking it from the seniors.

But that is not the end. That is just the beginning. My mother's utility bill will go up, because the Mississippi Power Co. produces utility energy with coal, as do the other utility companies in Mississippi. They are going to charge more. Do you think they are going to eat this tax increase? No, sir; they are going to pass it on to the senior citizens in the form of higher utility bills and gasoline. These people still have to drive to the grocery store and stand in line and pay for the gasoline for their old, used, beat-up cars.

This is insanity to talk about raising taxes on the working people of America again and on the senior citizens. They are going to feel this impact disproportionately. It is not fair.

I do not understand what happens between Jackson Hole, WY, and Jackson, MS, and when we get to Washington. When I go home, nobody comes up to me and says, "Hey, raise taxes and spend more money." And that is what President Clinton has said he wants to do. He wants to raise taxes so he can spend more. He said it. It is quoted in the Washington Post. That must be the truth, then.

No; they do not say that. They say, "Do not raise my taxes any more. I own Barnett's Restaurant in Baldwin, MS, and am barely making it. I need to go to the dentist and cannot afford it. Do not put any more regulation or bureaucrats or any more taxes on me. I cannot stand it."

"Cut spending first." Cut spending on—you take your pick. Someone said, "What would you cut spending on?" I am open. I will agree to cut spending on anything and everything except Social Security and the trust funds. They are trust funds. They are not causing the problem.

That is what I hear. Then I get to Washington and hear: Let us get a tax on this and a tax on that." When is someone going to get around in this city to doing something to encourage growth in the economy, encourage people to be able to get off these programs and be able to have a job? What we need to do is have incentives for inner city enterprise zones and targeted tax credits for businessmen and women to create jobs.

When is somebody going to get back to talking about growth in the economy and incentives and not talking about taxes that will hurt the economy and cut jobs and will put more people on these welfare programs that do not want to be there?

This tax package is just wrong; it is not the answer.

Now let me respond to some of the specific questions that people have asked me—very good legitimate questions—about the Btu tax when I have been home and in various meetings.

No. 1, what effect will the Btu tax have on unemployment?

Well, you might get a lot of different figures, but I think there is a lot of agreement it is going to cost jobs. The National Association of Manufacturers and the American Petroleum Institute estimate the loss of 610,000 jobs when this tax is fully implemented. Somebody else might have a different number, but I do not think there is any question it is going to cost us jobs.

What effect will the Btu tax have on the gross national product?

The Department of Energy studies show a significant reduction in GNP. Estimates range from 0.05 to 0.1 percent.

What effect will the Btu tax have on international competitiveness?

A Btu tax increases cost of production, decreases productivity, reduces corporate profits and investment. An energy tax, combined with an increased corporate tax rate—which is in this package also—and future health care tax—which we are looking at—will hurt competitiveness, cost jobs, and will slow growth.

What effect will the Btu tax have on American productivity?

Numerous studies from a lot of different groups show a direct relationship between energy costs and productivity. American productivity has made tremendous gains in the past 2 years. It is now higher than any time over the past 20 years. So this tax will reverse those gains that we are making.

Now let me give just one other example here—and I know other colleagues want to speak, but I want to bring it down home for a few minutes, to what this really does to people on the street. I want to illustrate why I so strongly oppose this Btu tax.

I oppose it because of what it is going to do to our country, to our economy, but also because of what it is going to do to Yazoo City, MS. So I ask you to listen as I tell you about the town of Yazoo City, MS.

This is a small town which has produced many of our State's most famous citizens. It is the home of Jerry Clower, the great country comedian; Willie Morris, the well-known southern writer; Mike Espy, the new Secretary of Agriculture; and Haley Barbour, the new chairman of the Republic National Committee. They are all from Yazoo City, MS. Maybe there is something in the water there in the Yazoo River.

The town is nestled in the hills which mark the beginning of the Mississippi Delta and is known as the Gateway to the Delta.

The county is roughly the size of Rhode Island. The city population is 12,500, and the total county population is approximately 25,000 people. The per-capita income—now, listen to this—of Yazoo City is $7,399, or only 45 percent of the national average.

Its economy is dependent upon agriculture, the production of agrichemicals and fertilizers, small manufacturers, and forest products. Every single aspect of Yazoo City's and Yazoo County's economy is energy intensive.

We are not talking about the big industrial giants. There is no such thing in that area.

We must ask ourselves—every Senator must ask this question—what is

the impact on my communities? So what is the impact of the Btu tax on Yazoo City, MS?

Here it is. Let us look at Mississippi Chemical. It is the largest employer in Yazoo City, employing approximately 570 people.

It produces, on an annual basis, 720,000 tons of ammonium nitrate, 522,000 tons of nitrogen solutions, and 500,000 tons of anhydrous ammonia.

Mississippi Chemical estimates the Btu tax will increase the cost of each ton by $6 to $9. Mississippi Chemical's total cost of production will increase by between $10.4 million and $15.7 million. That will mean lost jobs, lost markets, and lost wages.

It will hurt the local economy and it will cost jobs. That is why I worry about the effect of the Btu tax on Mississippi Chemical.

Mr. BURNS. Will the Senator yield on that point?

Mr. LOTT. I am glad to yield to the Senator.

Mr. BURNS. Madam President, the Senator from Mississippi hits the nail on the head. And while he has some information to put in the RECORD, the Guest Observer in Roll Call, written by Bob Eckhardt, who was a Democratic Congressman from Texas, makes the point very well on this particular tax: That this will be hurting the very people that we are trying to help, and that is our poorer families.

If you figure the percentage of the Btu tax that people pay of their incomes, the poorer people in this country now pay over 22 percent for energy. If you want to get very parochial about that, in my State of Montana, where we have a longer winter and it is colder and a $200 fuel bill is not uncommon, we are absolutely taking money right out of their pockets and sending it to Washington and doing whatever we ever do with it.

Mr. LOTT. Will this tax hurt Missoula, MT?

Mr. BURNS. Very much.

So I say to the Senator from Mississippi he is right on target.

And I will submit that article for the RECORD when it comes my turn.

But he is right on target when he says this is going to hurt the people that we are trying to help. It is misguided.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Thank you again, Madam President.

To continue, the cost will also increase in a number of other areas. Mississippi Chemical will be forced to pass what costs it can on to the farmer in Yazoo City. The former's cost of production will increase. That farmer, who is already paying higher fuel costs as a result of the Btu, gets a double hit. What happens next? The farmer will have to pass it on to his customers, or else he will have to absorb the cost himself. If he passes it on, it gets in the food chain, resulting in higher food costs, for the consumer, higher inflation, and it continues to go on.

What happens to the rates that citizens in Yazoo City and the County must pay? Yazoo Valley Electric and the Public Service Commission, which serves the town and region, will be forced to increase the rates an average of 5 percent, for a total of approximately $1 million to accommodate the Btu tax.

What will the tax do to the taxpayer in terms of increased costs to the Government? Well, a new Federal correctional facility will be constructed in Yazoo County. I worked with former Congressman Mike Epsy in helping to get that correctional facility to be located in Yazoo County, MS. It will be fully operational in 1996, just in time—just in time—for the new Btu tax to be fully implemented.

Using power requirements for the Yazoo City Federal Prison, as provided by the Bureau of Prisons, the Btu will increase its cost of providing energy to the prison by an annual amount of $113,200.

Guess who will get the bill? The taxpayer. It adds to the cost of maintaining prisoners in Yazoo City and other places all across the country. The facility will house 3,800 prisoners. The Btu will increase the cost to the taxpayer of each prisoner by $30 a year.

And so the list goes on, Madam President.

Is this Btu tax regressive in Yazoo City? Again the per capita income in Yazoo City is $7,399. For Mississippi, the average per capita income is $9,648. Yazoo City is substantially below the Mississippi average; both are significantly below the national average.

This is the type of tax that hits the poor, rural, and agricultural communities the hardest.

The President says he will expand the Low-Income Home Energy Assistance Program [LIHEAP] to address the regressivity. But let's examine that.

In Yazoo City, if LIHEAP is fully funded as the President requests, it will only cover 10 percent of the households eligible. Or, in other words, 90 percent of those eligible will not receive any assistance to make up for the harm of the Btu tax.

At the conclusion of my statement I will list the companies in and around Yazoo City which will each be adversely affected by this tax. Jobs will be lost, costs will increase, and inflation will rise. As you walk through this town, I want everyone to know what will happen in Yazoo City and the towns just like it around this country if a Btu tax is passed.

It will harm the economy of Yazoo City just as it will harm the Nation's economy. It will not reach any of the objectives put forth. The deficit will not be reduced—the anticipated revenues will only pay for new spending. It will not reduce U.S. dependence on imported oil—dependence will increase, domestic production will continue to decline. The economy will contract, not expand. Jobs will be lost not created. Competitiveness will suffer and inflation will rise.

For Yazoo City and for the Nation, I urge my colleagues to oppose the Btu tax.

I ask unanimous consent to have printed in the RECORD at this point a list of the companies in Yazoo County, MS, that would be impacted by this tax and what they do, and some of the costs that they will have to absorb.

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

EXISTING MANUFACTURERS LIST, YAZOO COUNTY, MS

AMCO Manufacturing, Inc. Lecil Lee, Plant Superintendent. Employees: Total 22. Product/Service: Disk harrows, bedding equipment & power ditchers, terrace construction equipment, metal fabrication, custom.

Anderson-River Oak. Donald R. Bohannon, President; C. Pat Ramsay, Vice President & General Manager; Larry Kitchens, Vice President & General Manager. Employees: Total 100. Product/Service: Drum debarker, chips, kiln-dried foreign & domestic woods.

Apac, MS. B.A. Atkins, President; David Barton, President Southern Division. Product/Service: Asphalt, paving contractors.

Architectural Millworks Ind., Inc. Melanie Kitchens; Dewey Hood. Product/Service: Custom cabinets, molding, trim.

Barry Barnes Lumber Co., Inc. Barry Barnes, President. Employees: Total 55. Product/Service: Hardwood lumber (red & white oak, ash, hackberry, etc.), hardwood lumber (cypress, poplar, maple, cherry, etc.), lumber, hardwood & softwood (rough, sawed & planed), rough & semifinished timber & ties, kiln drying of lumber, hardwood flooring, hardwood paneling.

C–G Industries dba Marting Manufacturing. Cecil Cartwright, President. Employees: Total 11. Product/Service: Aluminum fishing, commercial & chemical boats, hog & cattle feeders, hog & cattle scales, farrowing crates & handling equipment, hog & cattle waterers.

Carroll Gin Co. Joe S. Stoner, Sr., President. Product/Service: Cotton gins.

Carson Printing & Office Supplies, Inc. R.B. Carson, Sr., Owner. Employees: Total 3. Product/Service: Commercial printing-offset (stationery, cards & forms), commercial printing-letterpress (newsletters, posters, etc.).

C'est Bon Millworks. Billy Brewer, Shop Foreman. Employees: Total 3. Product/Service: Customs cabinets, molding, trim.

Crabtree Manufacturing. Jimmy Crabtree, Owner. Employees: Total 19. Product/Service: Machine shop welding repair.

Environmental Solutions, Inc. Alan Ramsay, President. Employees: Total 13. Product/Service: Equipment-extract silver from x-rays & photographic solutions.

Helena Chemical, Inc. Charles Johnson, Branch Manager; John E. Book, Fertilizer Manager. Employees: Total 9. Product/Service: Fluid suspension fertilizer.

W.S. "Red" Hancock, Inc. Raiford Hancock, President. Product/Service: Construction-oil field equipment.

Greg Harkins Chairs. Greg Harkins, Owner. Employees: Total 1. Product/Service: Rocking chairs, hand-made (oak & walnut), rocking chairs, large-size (double, nannie & children's), straight chairs, stools & benches.

Holly Bluff Gin Co. John Phillips; F.H. Coghlan. Product/Service: Cotton gins.

Jim King Welding. Jim King, President. Employees: Total 1. Product/Service: Welding.

Linwood Gin Co., Inc. Harrison Moore, President; Bill Parker, Manager. Employees: Total 40. Product/Service: Cotton gins.

Memphis Hardwood Flooring Co. Gene Gouch, Plant Manager. Employees: Total 58. Product/Service: Hardwood lumber.

Midway Gin of Yazoo County. Harris Swayze, President. Employees: Total 57. Product/Service: Cotton gins.

Mijo Lithographing Co., Inc. Burke Jones, President. Employees: Total 6. Product/Service: Business forms, commercial printing.

Mississippi Chemical Corp. Tom Parry, President. Employees: Total 570. Product/Service: Ammonium nitrate, urea, nitrogen solutions anhydrous ammonia, liquid carbon dioxide.

Nitrous Oxide Corp. Wardell Walton, Superintendent. Employees: Total 5. Product/Service: Nitrous oxide.

The Printing Shop. Stanley Simpson, President; Richard Sanders, Manager. Employees: Total 2. Product/Service: Commercial printing.

Satartia Gin Co., Inc. James Cresswell, General Manager. Product/Service: Cotton gin.

Simmons Farm-Raised Catfish. Harry Simmons, Jr., President; Hardy White, Jr., Plant Manager. Employees: Total 90. Product/Service: Fresh & frozen catfish (fillets, whole, nuggets & steaks).

Southern Bag Corp. Rick Markell, President. Employees: Total 200. Product/Service: Multiwall paper bags, stepped-end paper bags.

Spencer Ready Mix. Jack Spencer, President. Employees: Total 11. Product/Service: Concrete.

Strickland Pallet Co. Sam Strickland & Mable Strickland, Owners. Employees: Total 5. Product/Service: Pallets, wood.

Warren Pallet Co. C.L. (Pee) Warren, Owner; Esther H. Warren, Owner. Employees: Total 7. Product/Service: Pallets, wood.

The Yazoo Herald. Roy Thomas, General Manager. Employees: Total 10. Product/Service: Newspaper.

Yazoo Industries, Inc. Larry Loughman, President; Joey Ledlow, Plant Manager. Employees: Total 350. Product/Service: Wire harnesses for automobiles.

Mr. LOTT. Madam President, in recognition of others who want to speak here on the floor, I will conclude. I wanted to cite this example of a real world impact. There will be a dramatic increase in taxes on people in this rural county in Mississippi. This story can be repeated hundreds and thousands of times all across America. This Btu tax should be defeated.

When this piece is pulled out, this whole package will be pulled down. Maybe then we can get busy and serious about really talking about incentives to create jobs and controlling spending.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I thank the Chair.

I just want to follow up a little bit on what my colleague from Mississippi has said.

As agriculture is his basis, his financial basis and economic basis in Mississippi, it is true in Montana.

It is the single largest industry in my State. We have to be mobile. We are 148,000 square miles. We have a lot of dirt between light bulbs. We have to be mobile if we are going to be efficient. So it hits us especially hard.

Madam President, I ask unanimous consent at this time to have printed in the RECORD the Guest Observer by former Congressman Bob Eckhardt from Texas.

The point he is trying to make is the poorest 20 percent of Americans will spend 22 percent of their income on energy costs. And I daresay that it would have an even bigger impact on my people, if we want to be very parochial, in Montana.

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

[From the Roll Call, May 24, 1993]

GUEST OBSERVER

(By Bob Eckhardt)

CLINTON'S BTU TAX WOULD BE HARDEST ON POOR FAMILIES

The proposed energy tax is the worst kind of sales tax. It is both regressive and hidden.

Legislation worthy of support must pass two basic tests. First, it must have admirable objectives that can reasonably be achieved, and second, it must be imposed fairly and equitably.

The Btu tax is aimed at reducing the federal deficit and conserving energy. But the tax bill will not achieve its objectives, and it is anything but equitable.

The tax penalizes lower- and middle-income families, hurts schools and hospitals, increases our dependence on foreign fuel, and hobbles businesses critical to furthering America's recovery.

The bill would tax the Btu—British thermal units, which measure heat content—of coal, gasoline, oil, natural gas, and hydro and nuclear electricity. The end result will be higher costs on virtually all products. The question is, who will pay the bill?

We all will pay but, as is too often the case, those who can least afford it will pay more. Lower-and middle-income families—of which the elderly and minorities are major segments—will pay a higher percentage than will upper-income families. In my home state of Texas, this means a disproportionate number of Mexican-Americans in the Rio Grande area and African-Americans residing on the border of Louisiana will suffer from this regressive tax.

According to the Bureau of Labor Statistics, in 1991, the middle class spent 7 percent of its after-tax income on energy needs, including electricity, heating oil, gasoline, and natural gas. At the same time, the poorest one-fifth of American families paid an average of 22 percent of their income to cover the same energy costs, while the wealthiest one-fifth paid 4 percent of their income on energy needs. The Btu bill will exacerbate this imbalance. This is neither right nor fair.

Is it right or fair to impose a tax that will impede the abilities of our schools and hospitals to perform effectively? While consumers may be able to cut back on home energy use to limit the effects of the Btu tax, schools and hospitals—now already more financially strapped than ever—cannot. Heating, air-conditioning, and lighting are critical budget items of both institutions, as is bus service for our schools. The Btu tax will increase the cost of each of these necessities, forcing schools and hospitals to make unreasonable cutbacks in education and health care delivery.

Nor is it wise to impose a tax that will continue our reliance on foreign fuel. The Administration claims that the Btu tax will lessen our dependence on imported oil, but this is highly unlikely. Common sense dictates that when you discourage discovery of fossil fuel in the US, you discourage production and, thus, place a greater reliance on foreign fuel.

Today, almost 50 percent of the oil used in the US is foreign. Within ten years, foreign oil will comprise well over half of all oil-based energy used in the US. Why, then, should we add a special burden to our oil and gas industries when production is at record lows?

Lastly, the Btu tax bill offers the potential to rob many Americans of jobs. Energy-intensive industries—such as agriculture, mining, manufacturing, and construction—will be hardest hit by the Btu tax. Some businesses will be able to pass on their new Btu tax costs to customers. But many more will not. Add to this the fact that foreign companies will be exempt from paying the Btu tax on their imported goods, putting US companies at a severe disadvantage, especially in highly competitive industries.

I strongly favor President Clinton's program of stimulating the economy by adding jobs in the public sector to improve the infrastructure—which has been sadly neglected in the past dozen years—by repairing roads and bridges, providing water and sanitary facilities, and supplementing the availability of nurses and other personnel in the cities.

But I know that there will be enormous loss of employment if the oil-related energy facilities in Texas are curtailed. Professor Jared E. Hazleton of Texas A&M University estimates that the Btu tax will lead to 54,500 jobs lost in Texas by 1998. These are productive, permanent jobs in the private sector. I doubt there will be that number produced through President Clinton's program of stimulating jobs that are not necessarily productive nor permanent.

If President Clinton favors his jobs program and the Btu tax, this would be no better than a wash at very best.

I have spent 22 years of my active life in the Texas legislature and Congress trying to lower oil prices when I thought them to be too high. But I am not about to advocate higher energy prices by raising them through a Btu tax.

Mr. BURNS. I realize the President has proposed an earned income tax credit that would partially offset some of these costs. This was not done willy-nilly. But let us examine who benefits from it: Poor working parents with children—who should. That is all well and good. It is well deserved. They should.

But let us look at who is not included: Low-income single people, childless couples, and senior citizens. I think the Senator from Mississippi brought that to light.

It is easy to calculate on these utility bills but let us face it, to the American people this is probably the most inflationary tax we can pass. I have often said, out West, the American people buy things. They buy things because they are necessary to their life. They buy things that add to the quality of their life.

Things are made of stuff, and we produce a lot of stuff in the West. It takes energy to produce it, to turn that raw material into a product. Every phase of that, from the growing of a raw product, to its transportation, to its manufacture, to its marketing—in every phase, energy enters into the picture. This is the most inflationary thing we can do to our people, this tax. It cannot be taken lightly. I had a mine close in Troy, MT. It cost over 300 jobs.

This puts people out of work. The direct effect on those families is bad enough, but the ripple effect it has across the Nation is tremendous. We are talking about 1,500 jobs directly lost to the State of Montana if this energy tax goes in. We are talking about a coal trust fund that would be devastated because not only are we an energy user, we are an energy producer. We are the Saudi Arabia of coal, when it comes to producing energy for this great country. I know the Chair understands that because some of our coal produces power for where she is from. And she understands that. We have to keep this coal where it is economically viable.

All the way through this we can see what it does. When you talk about nationally 400,000 jobs lost, what do we do, put 400,000 people on the Government rolls? If we talked about the jobs lost in the energy industry today, especially in the oil and gas fields, we would be alarmed at the jobs that have been lost since 1985. The Senator from Oklahoma understands that, the jobs lost, what we have done to the energy industry. Most of it has been caused by ill-advised and ill-fated Government policy.

So the energy tax is regressive because it eliminates jobs, it raises prices, it fuels inflation, and it weakens the competitiveness of this U.S. economy. It also sets us folks who are remote from the rest of the country—it guarantees we will stay remote from the rest of the country. I do not think we want that.

The Btu tax is unfair, especially unfair to the West, and especially to the States that produce energy and also are high energy users.

Madam President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah.

THE BTU TAX

Mr. HATCH. Madam President, I congratulate the Senator from Montana and my colleague from Mississippi and the others speaking on this issue. It is really important. When we start talking about rural States, like my home State of Utah, I can tell you right now if the Btu tax goes through, we have two counties in Utah that are primarily coal-producing counties. If that tax goes through, I have to tell you we are going to lose all kinds of jobs.

It is discriminatory against better coal. In Utah we produce high-moisture low-sulfur high-Btu-content coal. Compared to coal in other sections of the country, ours is going to be taxed at a much higher rate than that of other sections of the country. It is discriminatory and it is going to cost us hundreds of jobs in these small counties where coal mining is basically the way of life.

In addition to that, I look at it from an agricultural standpoint. You are going to find instead of it being $204 a year additional costs, or $17 per month per family, which is what the President originally said, it certainly is going to be somewhere between $600 to $3,500 extra cost per farmer. They simply cannot pass these cuts on to the consumers. They just do not have the capacity to do that. So it means just more added hardship on the backs of farmers all over America.

If you add it on further you are going to find the Btu tax is going to add 5 to 10 percent in cost of almost every good, product, and service in America. It is an inflationary tax. It really does not do what it should do. In the end it is going to cost us hundreds of thousands of jobs, and the amount of money they anticipate they will get in revenue from it just is not going to be there.

You would think we would learn after we passed the luxury tax, which I voted against. You would think we would learn. They passed it saying we are going to get all this revenue from the tax on boats and cars and furs and jewelry, and in the end we actually lost money, people lost jobs, and whole industries were bankrupt.

We have to understand around here, the power to tax is the power to destroy. Frankly, this particular program of our President, though well-intentioned, is long on taxes and very short on deficit reduction. Over a 5-year period you are going to find $5 in tax increases for every $1 in spending reductions. That just is not the way to go to try to get the deficit under control. I am very concerned because I think our country cannot continue to have this type of phony approach to our budgetary problems. Worst of all, such deficit reductions as they are, by and large will be in outyears, which will never occur.

So it is a sad game being played on the American people. I believe the President is sincere. I think he wants to do what is right. I think he really does want to reduce Federal spending. But there is no question he wants to increase taxes as part of trying to reduce the deficit. Yet, day after day, I see new programs here, all well-intentioned, some of them well thought out, but adding more spending programs to the Federal Government mix that makes it much more tough on everybody.

G. FRANK JOKLIK

Mr. HATCH. Madam President, on June 1, a great mining industry leader, G. Frank Joklik, retires as president and chief executive officer of Kennecott Corp. I rise today to salute Mr. Joklik and to thank him for his contributions to the industry and to Utah.

Kennecott is one of the oldest and largest mining companies in the United States, headquartered in Salt Lake City, and one of the premier companies in Utah and in the United States. It has several operations throughout the United States. Many of my colleagues have had the opportunity to meet Frank Joklik during many of his trips to Washington and in recent years at the Senators' Ski Cup in Park City, UT—something he has always supported as a great Utahn.

I would like to take a moment to pay tribute to Frank on his retirement. He is truly one of the most outstanding industry leaders I have had the pleasure to know and work with during the past 17 years. He must be given credit for the rejuvenation of one of Utah's greatest resources, the Bingham Canyon Mine, and for ensuring a financially sound Kennecott, which has benefited not only Utah, but our country as well.

The story of Kennecott's turnaround is the story of an unprecedented revival of a traditional industry. At a time when heavy industry is supposedly on the decline in the United States, Kennecott climbed back from the edge of extinction to become a world leader in mining productivity, cost competitiveness, and environmental protection.

When Frank Joklik became president of Kennecott in 1980, its facilities were aging and production costs were high. At that time, the world copper prices began to decline to historic low levels, and Kennecott's future became uncertain.

Between 1980 and 1989, under Frank Joklik's distinguished leadership, Kennecott increased labor productivity fully 3½ times and cut unit costs of copper production by 75 percent in real terms. Kennecott's Bingham Canyon and concentrating facilities were fully modernized, and the Kennecott mine is now one of the lowest-cost copper producers in the world. Culminating its decade long renewal, Kennecott announced on March 11, 1992, a plan to invest $880 million to build a new copper smelter and modernized copper refin-

ery in Utah. When construction is completed in 1995, Kennecott's Utah copper operation will be the most technologically advanced and cleanest in the world.

The exceptional Bingham Canyon orebody, a productive work force, and the most technologically modern and environmentally sound facilities, ensure that the Utah copper operation is one of the most competitive copper producers in the world. The Utah property, in combination with Kennecott's other mineral interests, have positioned Kennecott to be financially sound and ensure the livelihood of approximately 2,500 high-quality jobs into the next century.

Mr. President, the Salt Lake Tribune printed an editorial last week that briefly summarizes the accomplishments of Frank Joklik as Kennecott's leader during these difficult times. I ask unanimous consent that this editorial be included in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. HATCH. I wish Frank, and his dear wife, Pam, great happiness as he retires from Kennecott. Knowing Frank as I do, I know he will continue to be actively involved in the Salt Lake community. As a matter of fact, he has already agreed to be the new chairman of the Salt Lake City Olympic Bid Organizing Committee, which is heading up Salt Lake City's effort to host the 2002 winter Olympics. He will continue to be a giant in our city and a strong presence in the affairs of our State.

I pay tribute to G. Frank Joklik as an outstanding individual, as a great mining industry leader, as a servant to the local community, and as one of my true friends.

He is a great man. His wife is a great woman. They both have given a great deal to our great State and to our great city of Salt Lake City. I just want to personally pay this tribute to them at this time, since he retires next Tuesday, and just say my very best to both of them.

I thank the Chair and yield the floor.

EXHIBIT 1

[From the Salt Lake Tribune, May 23, 1993]

THE MAN WHO REBUILT KENNECOTT

Though their accomplishments were separated by nearly a century, the names of Daniel C. Jackling and G. Frank Joklik deserve mention in the same breath. The former began open cut copper mining in Bingham Canyon in 1906, and the latter saved that operation from ruin in the 1980s.

So, when Kennecott Corp. announced earlier this year that Mr. Joklik would retire June 1 as the company's president and chief executive officer, observers of Utah business were quick to praise him as the savior of one of the state's most prominent businesses.

Fro many years, Kennecott was Utah's largest private employer, a titan of the copper industry. But under the heady spell of American affluence following victory in World War II, management and labor began a dance of death. They enhanced compensation at the expense of plant modernization.

By 1980, when Mr. Joklik took over Kennecott's helm, the Utah copper giant was down for the count. Copper prices were low, production costs high, mining and milling operations antiquated.

The new CEO, an old hand who had joined the firm in 1959, took drastic action. He slashed perquisites and "outplaced" hundreds of managers while maintaining production levels. He oversaw the sale of Utah-based Kennecott to Standard Oil of Ohio and its parent, British Petroleum, persuading the new owners to invest $400 million in a massive modernization effort.

In painful negotiations, he persuaded labor unions to make major wage and benefit concessions in order to foster the modernization. Employment plummeted. It was a bitter pill for many workers, but the operation survived to continue rewarding jobs for those who were able to remain.

Mr. Joklik supervised a subsequent sale to RTZ of London, one of the largest mining concerns in the world. It, in turn, has begun an $880 million project to bring a new, state-of-the-art smelter on line in 1995.

In short, Mr. Joklik literally has rebuilt Kennecott. Today's company employs only a fraction of the workers of yesteryear, but it is one of the most efficient copper operations in the world, well placed to compete in the world marketplace.

What could have become another rusty relic of American industrial decline has emerged instead as a success story, and G. Frank Joklik deserves much of the credit.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. BOREN. Madam President, I thank my colleagues for comments that have been made in the last few minutes about the proposed Btu tax. We are getting ready to get back to amendments on the pending bill. Let me plead with my colleagues who have amendments to the pending legislation. We will soon be turning to the amendment of the Senator from Minnesota, Senator WELLSTONE. I hope those who have comments on the Wellstone amendment will come to the floor.

After that, it is my plan we move toward an amendment probably by the Senator from Rhode Island Mr. CHAFEE] or the amendment of the Senator from Massachusetts [Mr. KERRY] in relation to public financing of campaigns.

I see the Senator from Kentucky. Let me yield to him briefly before I complete my remarks. I want to appeal to our colleagues who have amendments or comments on pending amendments to come to the floor and to offer those amendments this afternoon so that we can make progress.

Let me yield the floor just a moment to the Senator from Kentucky.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Kentucky.

Mr. MCCONNELL. Let me second what my friend from Oklahoma said. It is my understanding Senator CHAFEE will be offering an amendment, I believe sometime shortly. We know that Senator WELLSTONE has his. It was previously laid aside and I believe it has now been modified. Senator KERRY has also indicated he is ready. So I think we are on track.

Mr. BOREN. Mr. President, I thank my colleague from Kentucky. I do hope we will be moving momentarily to the Wellstone amendment and then to the Chafee and Kerry amendments on the pending legislation.

THE BUDGET ALTERNATIVE

Mr. BOREN. Mr. President, let me say briefly, I heard the comments earlier—I was in the cloakroom—made by the Senator from Michigan [Mr. RIEGLE] about the proposed budget alternative, the bipartisan alternative, that I have offered, along with Senator JOHNSTON, on this side of the aisle, and along with Senator COHEN and Senator DANFORTH on the other side of the aisle.

Mr. President, I have to say with all due respect that I think my colleague from Michigan took several of the proposals out of context. He talked solely about the Social Security COLA change for COLA's on amounts above $600 a month as if it were the only part of the package. This is a favorite tactic of anyone who wants to criticize a package: Let us take part of it; let us not look at the whole of it.

He neglected to talk about the so-called Btu energy tax. I think it is very important that we put the facts about the Btu tax on the table.

Because I happen to be a Senator from the State of Oklahoma, immediately those who do not want to deal with the substance of the argument say, "Oh, the Senator from Oklahoma is against the Btu tax, isn't that a surprise? What is the Btu tax? It is an energy tax. Do they produce oil and gas in Oklahoma? Of course. Well, then, let's close our minds to anything else that the Senator from the State of Oklahoma might have to say because, after all, the Senator from Oklahoma, since he is from a State that produces oil and gas, couldn't possibly have anything to say about the national interest, he couldn't possibly be concerned about what happens to the future of this country."

Let me say, Mr. President, speaking on behalf of my constituents who I think are good, patriotic Americans who do care about the future of this country, we resent that implication because we do feel we have something to say about what is in the national inter-

est. The Btu tax has already been changed. When it started out it was going to be collected at the wellhead from the oil producers. The collection point was then moved. It was moved to the pipelines. Then it was moved, again, to the utilities. Then it was finally moved from the utilities to the consumer. It will be tacked right on to the bill of the consumer.

There are not just consumers in Oklahoma. There are consumers in California. There are consumers in New York. There are consumers in Maine. There are consumers in New York, and there are certainly consumers in Michigan. There is even a cost of energy to the production of automobiles, believe it or not, because you have to run the machines on the assembly line.

Unfortunately, the way the Btu tax is crafted, that additional energy cost, whether it is on the cost of producing chemicals or fertilizers for farmers or automobiles for export to the world marketplace, is not rebatable. That means we are raising the cost of every product produced in this country when we are struggling to save jobs and struggling to fight for market share.

Mr. President, let us be responsible about what we are talking about here. We are not talking about protecting oil companies. We are talking about preserving jobs for Americans, wherever they are. A very reputable study says that 300,000 jobs, at a minimum, are at stake by increasing the price of all of our products in this country into the world marketplace.

So when I talk about needing to make changes to bring back competitiveness in this package, I am not talking about something that is provincial where Oklahoma is concerned. Every State in the Union and every Member of this Senate ought to be concerned about the anticompetitive provisions of this tax bill, which will make it hard to sell any product produced in this country which uses any energy in the production of that product, and that means virtually 100 percent of all products.

Mr. COHEN. Will the Senator yield?

Mr. BOREN. I will be happy to yield.

Mr. COHEN. First for a statement and then an observation.

I have worked with the Senator from Oklahoma for many, many years, and for anyone to suggest that he is motivated simply out of parochial interests, I think, does a great disservice to him. Senator BOREN to my knowledge, is not promoting the oil industry interest, but rather is trying to promote the national interest. The question I have for the Senator from Oklahoma is, under the proposed Btu tax, what is the price of gasoline projected to be at the gas pump?

Mr. BOREN. I beg your pardon.

Mr. COHEN. What are the current projections of the tax that will be registered at the pump for gasoline?

Mr. BOREN. On gasoline, the equivalent is about 8 to 10 cents under the Btu tax.

Mr. COHEN. An 8 to 10 cent increase at the gas pump. What about home heating oil?

Mr. BOREN. I do not have the figure on home heating oil, except that I do have a figure overall, and I was going to cite it in relationship to the Social Security COLA. This was mentioned by the Senator from Michigan. He talked about his great concern for the elderly, and we all have that concern.

When you look at the amount that it will cost the average elderly person to change the COLA on moneys above $600 a month—and generally we are not here talking about poor people; we protect fully the COLA of the first $600 a month—the Energy Committee of the Senate staff has done a study. They found that the impact of changing the COLA at the top end, assuming a rather high level of inflation, will be $48 in a year, whereas the cost for the Btu tax for the average person in a year, average senior citizen, will be $102 per year for the average senior citizen.

By the way, that is a tax that will keep growing and a burden that will keep growing because the Btu tax is indexed for inflationary increases in the cost of energy. What an irony. You have a tax tied to the price of energy. You then index as it goes up, and, of course, it will go up because of the tax. So then you have another automatic tax increase which further drives up the price of energy, which leads to another automatic tax increase. So no one can begin to tell us what the final burden on the elderly or on manufacturing capacity will be.

Mr. COHEN. My concern has been the so-called Btu tax as such is what I would call a stealth. It is spread throughout the economy so that virtually every single product that the consumer has to purchase will see a higher price. It will be a higher cost for a pair of jeans or a pair of athletic shoes or a piece of clothing or any product put out on the market that in fact as a result produced through energy is going to carry a high pricetag and on one can claim, or bear the blame for that because it is not labeled to be a tax. It is simply an increase in the price.

I think that this is not being honest with the American people. This is in fact a deception on the American people. If we really want to talk about raising the kind of revenues necessary to pay for the present program, then we ought to be very specific about this in terms of what level of taxation they are going to bear.

Mr. MITCHELL. Mr. President, will the Senator yield for a question.

The PRESIDING OFFICER. The Senator has yielded to the Senator from Maine for a question.

Mr. MITCHELL. Will the Senator from Maine yield for a question.

Mr. BOREN. I have the floor. I would be happy to yield.

Mr. MITCHELL. Mr. President, I have just checked the clerk's records and apparently at about 12:15 Senator WALLOP raised the question of the Btu tax, and in the 2 hours since then there have been about eight or nine speakers, none of which had anything to do with this bill.

I wonder if I might inquire as to how long it is intended that this discussion will continue and whether or not we can return to the pending bill.

Any Senator can speak on any subject he wants, but the fact is if we are going to spend all of the day debating matters that are unrelated to the bill—there is no amendment pending with respect to these matters—then when we come to 9, 10, 11 o'clock tonight people will ask me, "Well, gee, why are we staying here tonight? What are we doing on this bill." When I say "Well, we spent all afternoon talking about unrelated matters," this will not satisfy too many Senators.

Mr. COHEN. Will the Senator yield.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor. Does the Senator from Oklahoma yield?

Mr. BOREN. Yes, I yield.

Mr. COHEN. I came to the floor to discuss the Wellstone amendment. That is why I am over here. I did not take part in the debate until I arrived and I heard some comments about the Btu tax. And then I simply wanted to pose a couple of questions. I certainly had no intention of going beyond 3 or 4 minutes. If the Senator from Oklahoma is prepared to move to the Wellstone amendment, let us move to the Wellstone amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I will cease my discussion of this matter. As a matter of fact, the Senator from Michigan came to the floor and made some statements that the Senator from Oklahoma took to be directed at him. In fact, he asked the attention of the Senator from Oklahoma because he said he wished to comment about how I was attacking the elderly, because I am for a bipartisan plan that wants to try to cut the deficit by raising taxes less than we cut spending. And because I believe that the Btu tax also hurts the elderly of this country.

The Senator from Oklahoma has now had an opportunity, or was getting ready to have an opportunity to point out to the Senator from Michigan, who raised this subject and who started this discussion, that the Btu tax will cost the average elderly citizen, according to the Energy Committee study, $102 a year as opposed to $48 under the COLA change we propose.

That is all I have to say about the subject. We will get back to the subject at hand. But I do believe that we

should get over this kind of geographical attack upon people because of the States that they happen to represent. There are people from the State of Oklahoma who care just as much about this country as the people from Michigan. I think people in Michigan are patriotic. I will stipulate that. And I think people in Oklahoma are patriotic, too. I think people all across this country want it done in a fair and progressive way where people who are able to bear the burden will bear the greatest part of this burden.

But what we do not need is more partisanship and more geographical division in this country. We need to put aside political bickering and deal with the problem.

Now, the problem we need to deal with is trying to reform the way we have financed political campaigns in this country. And that is what we are trying to get to. I will happily yield my time and not respond further to the Senator from Michigan on this occasion—we will do that in the future—and turn to the Senator from Minnesota, whose amendment is pending on this bill and to which the Senator from Maine [Mr. COHEN] has come over to comment. The amendment of the Senator from Minnesota is the pending business and the Senator from Minnesota is entitled to be recognized to discuss the pending business. I do not intend to discuss other matters further at this point.

Mr. RIEGLE. Will the Senator yield before he yields the floor.

Mr. BOREN. I would prefer to yield to the Senator from Minnesota and let him proceed with his amendment if he wishes to.

Mr. RIEGLE. If the Senator will yield for 1 minute, I just want to respond——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield? The Senator from Oklahoma has the floor.

Mr. RIEGLE. If the Senator will yield just briefly, having made some remarks while I was off the floor.

Mr. BOREN. I yield.

The PRESIDING OFFICER. The Senator from Oklahoma yields for a question from the Senator from Michigan.

Mr. RIEGLE. I thank the Senator. I will not be long. I hope the Senator from Minnesota can wait.

The issue that I was raising before had to do with part of the proposal of the Senator from Oklahoma to reduce the COLA for Social Security recipients while the trust fund is in surplus. And to me that is totally separate and apart from the Btu tax. You could be against the Btu tax. You could have 100 ways to fix it. I do not think the way you fix it is by coming in and targeting the COLA on senior citizens on Social Security when it is not the Social Security trust fund that is creating the budget problem.

That is my point. I think it is unfair. I think that is a defect in the plan and ought to be corrected.

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Mr. BOREN. Mr. President, I will not prolong the debate any further. I just would say I think it important for us to craft a plan that is fair, craft a plan that will not be anticompetitive and hurt Americans in the world marketplace and come up with a plan that has enough real spending cuts in it that we can say honestly to the American people, yes, we are asking you for more revenues; you are going to have to sacrifice; you are going to have to pay more taxes but first we are going to prove that we can really get spending cut.

That is the way to keep faith with the American people and to get them to, I think, be willing to help us get this deficit down through shared sacrifice.

I will not go back and forth again with the Senator from Michigan. All I would urge is that if this is not a proposal in the way we propose it that he thinks is fair, I hope we can all work together and find other ways and other places in the budget where we can make additional spending cuts and we can draft a package that will have a better balance. Instead of trying to primarily reduce the deficit through taxes, let us try to primarily reduce the deficit through spending cuts. And then I think we will find the American people much more willing to sacrifice in terms of paying some additional taxes at the same time.

So I would really like to return at this point to the amendment of the Senator from Minnesota and let the Senator from Minnesota present his amendment because I believe that we are close to having this amendment worked out. We have the Senator from Massachusetts [Mr. KERRY] here, waiting to offer his amendment to the pending bill, and we also have the Senator from Rhode Island [Mr. CHAFEE] on his way to the floor to offer his amendment.

So if I could, with the possible exception that the Senator from California has, I believe, spoken to the Senator from Minnesota, I would like to get back to the proposal of the Senator from Minnesota.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Will the Senator yield.

Mr. BOREN. I will be happy to yield.

Mr. MITCHELL. I might just say something in hopes we can get back to the bill in question. We are going to get to the reconciliation bill. I hope and expect and am confident that we will have a full and vigorous debate on that subject. I hope and I encourage the Senator from Oklahoma and the Senator from Maine to offer their proposal as an amendment. Let us have a debate and let us have a vote on it. Let every Senator stand up and vote whether he or she does or does not favor that proposal.

Let every Senator who has another proposal offer it. Let us debate on that and vote on that. I hope that happens. I encourage that to happen. But in the meantime, I hope we can get back to this bill and get to work on the bill and not bring up matters that have nothing whatsoever to do with this bill.

We are on the sixth day of consideration of this bill. We do not know—there is no end in sight, so far as I can see. There are some members of this Senate who do not want this bill ever to come to a vote and who may still overtly filibuster. We hope that is not the case. But at the very least, it is clear that we are never going to finish this bill if the debate is on other matters.

So I would like to ask if it is possible—obviously, any Senator can say anything he or she wants. I have no inclination to restrict what Senators say. But with respect to the reconciliation bill, and specifically the proposal offered by the Senators from Oklahoma and Maine, I hope we can do that when we get to the reconciliation bill. I encourage them to offer it as an amendment, and I encourage the Senators to vote on it. Any other Senator who has the proposal, I encourage the very same thing.

I thank the Senator from Oklahoma for now suggesting that we get back to the bill in question.

Mr. BOREN. Mr. President, I thank the majority leader. This Senator was quietly eating lunch when this subject was raised and when another Senator asked for the attention of the Senator from Oklahoma to come to answer questions about the Social Security proposals. That is the only reason the Senator responded, as he was asked by a colleague to respond to remarks made on the floor.

Let me inquire of the Senator from Minnesota if he is willing to grant just a brief moment to the Senator from California, to be followed immediately by the Senator from Minnesota, or if he wishes to proceed immediately? After we have disposed of the Wellstone amendment, we can then turn to the Senator from Massachusetts for his amendment.

Mr. WELLSTONE. Mr. President, I say to my colleague from Oklahoma, since I have been waiting a couple of days, I would be pleased to wait few moments.

ORDER OF PROCEDURE

Mr. BOREN. Mr. President, I ask unanimous consent that the Senator from California then be recognized; and then following her comments, proceeding as if in morning business, that the Senator from Minnesota, who has the pending amendment, be recognized to continue discussion of the pending amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California, under the previous order, is recognized.

Mrs. FEINSTEIN. Thank you very much, Mr. President, I want to thank the Senators from Oklahoma and Minnesota.

(The remarks of Mrs. FEINSTEIN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. WELLSTONE. Mr. President, I will try to be brief and see whether or not there is any agreement on my amendment.

First of all, I send a modification to the desk.

The PRESIDING OFFICER. The Senator modifies the amendment.

The amendment (No. 368), as modified, is as follows:

Strike all after "(b) PROHIBITION" and insert the following:

OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 314(b), is amended by adding at the end the following new subsection:

"(m)(1) A lobbyist or a political committee controlled by a lobbyist, shall not make contributions to, or solicit contributions for or on behalf of—

"(A) any member of Congress with whom the lobbyist has, during the preceding 12 months, made a lobbying contact; or

"(B) any authorized committee of the President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to, or solicited contributions for or on behalf of, any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution or solicitation, make a lobbying contact with such member or candidate who becomes a member of Congress (or a covered executive branch official).

"(3) If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

"(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

"(B) an authorized committee of the President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

"(4) For purposes of this subsection—

"(A) the term 'covered executive branch official' means the President, Vice-President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code;

"(B) the term 'lobbyist' means—

"(i) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(ii) a person required under any other law to be registered as a lobbyist (as the term 'lobbyist' may be defined in any such law).

"(C) the term 'lobbying contact'—

"(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

"(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

"(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

"(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

"(ii) does not include a communication that is—

"(I) made by a public official acting in an official capacity;

"(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

"(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

"(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

"(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

"(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

"(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

"(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

"(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

"(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

"(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

"(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

"(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.".

"(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

"(i) the member of Congress;

"(ii) any person employed in the office of the member of Congress; or

"(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.".

Mr. WELLSTONE. Mr. President, what this amendment does is straightforward. We have been talking about this amendment for a couple of days in negotiation. It strengthens the provisions of this bill which attempt to sever the connection between lobbying and the giving of money, which is one of the things that I think bothers people in the country most about the political process here.

What we are trying to do—and Senator KERRY has spoken with great eloquence about this—is to bring about a series of reforms which we think will make the political process more open and more accountable, and a political process that people can have more confidence and faith in.

Within this bill, Mr. President, is a provision that says that if a lobbyist makes a contribution to a Senator, then there is a 1-year period of time wherein that lobbyist cannot lobby that Senator. This is rather narrowly constructed. Vice versa, if a lobbyist has been lobbying a Senator, there is a 1-year period of time before that lobbyist can make a contribution to that Senator. That is what we are talking about—a 1-year timeframe to attempt to sever this connection.

What we do in this amendment is strengthen this provision of the bill, I think, in several very helpful ways. First of all, as all of us know who serve in the U.S. Senate, quite often the lobbying is with our staffs, it is not so much with us directly. So what we say is that if a lobbyist has made or solicited a contribution, that 1-year prohibition also applies to the lobbying of our staffs.

Another thing that we do in this amendment, which I think is very helpful and strengthens this provision, is we make it clear that in the case of a Senator who has just been elected, again, if a lobbyist has made a contribution, there will be a prohibition

during this 1-year period of time from the point of the contribution, wherein the lobbyist cannot lobby that Senator.

Finally, we extend the prohibitions in the bill, to prevent a lobbyist from advising a client, or a political committee controlled by that client, to make a contribution if he has lobbied the Member within a year.

So what we do with these changes is to significantly strengthen this provision. We originally had language which was considered by some to be too broad in its application. Several Senators—Senator LEVIN, Senator BOREN, and Senator FORD—suggested ways to really narrow this provision. So we can bring this amendment back in a way which has generated much more support.

Mr. BOREN. If the Senator will yield for a question, I ask my colleague, one of the areas of concern in the beginning was that we were not only here covering lobbyists about contributions that they could or could not make; we were talking about clients and, therefore, possibly that could be deemed to be employees of a corporation. So, for example, if a corporation, or a labor union, or an association, whatever it happened to be, had a lobbyist, we know that under the terms of the bill and under the terms of the amendment, that lobbyist could not make a contribution if that lobbyist was going to lobby a Member or Member's staff, as the amendment of the Senator from Minnesota says, within a certain period of time, and could not solicit contributions for that candidate from their clients.

What worried me was extending that so far that, let us say you have a corporation that has 100,000 employees, or a union that has many members, or an association with many members, would that be deemed to prohibit those other employees of the company, or members of an association, or whatever it happened to be, from making contributions, even though the company for which they worked might have a lobbyist?

Mr. WELLSTONE. No. The Senator's suggestion has been very helpful in this regard. My amendment, as modified, would not prohibit the employees you described from making a contribution.

Mr. BOREN. The lobbyists, however, could not solicit from the CEO of the company, or from an officer of the corporation, or any other employee of the corporation; that lobbyist could not solicit a contribution for Senator X or candidate Y running for the Senate; is that correct?

Mr. WELLSTONE. That is correct.

Mr. BOREN. If I wanted to ask the CEO of a company that might have a lobbyist, or a secretary working for a company that might have a lobbyist, for a contribution, I could do so; but I could not ask the lobbyist to raise money from that corporation?

Mr. WELLSTONE. That is correct. This applies to a situation where the lobbyist has lobbied you, and the lobbyist turns and suggests to, for example, the officers of that company, that they make a contribution. But that does not preclude the Senator from Oklahoma from directly—whether it be a company, union, or an ideological PAC organization, if in fact that kind of money is permitted—making that kind of request. We have received a tremendous amount of help, and we have tried now to narrowly construct this and to essentially build on the provision in the legislation.

Mr. BOREN. I thank the Senator for his comments. I think he has gone a long way toward clearing up the problem I saw in the original amendment. I am very sympathetic, first, to the provisions that the President urged be put in the bill. I think if the public sees a person who is paid to lobby, a well-paid lobbyist, turn around and make a contribution to a Senator or a candidate for the Senate, whose vote they want on a particular piece of legislation or amendment, there is the perception, at least in the minds of the public, or a possibility raised in their minds, that this contribution is being given in return for the Senator or the candidate's position on a particular issue. I think we want to dispel that kind of problem.

The Senator is one to make sure that new Members of Congress are covered, that staffs of Members of Congress are covered, and that there not be the lobbyist also not be in the position to go around and soliciting contribution from others so if he or she cannot give himself or herself the perception that that lobbyist has done a great financial favor in terms of gathering campaign funds for a Member.

I am very much in sympathy to the basic goal of the amendment. I think the modification the Senator made is helpful in terms of making sure when we fire at the abuse we really hit the target and not some unintended consequences. I think this is improved. I would value the comments. I see both the Senator from Michigan and the Senator from Maine who are the Senator from Michigan chair of the Subcommittee on Government Operations, deals with this matter, the Senator from Maine the ranking member. They both have expertise in this area. I know they also may wish to comment. But from the point of view of this Senator at least as an individual I believe the modifications have gone a long way toward reassuring me in terms of the earlier problems he saw in the amendment.

Mr. WELLSTONE. I would very much appreciate the comments of both Senators. As I say, the initial thrust of this amendment was to try and sever this link and build on this prohibition and make it stronger. Even with this modification, I think we still have a stringent test and we are pleased with the amendment.

Mr. MCCONNELL. May I ask the Senator from Minnesota a question?

The PRESIDING OFFICER. The Senator from Minnesota has the floor and yields to the Senator from Kentucky a minute.

Mr. MCCONNELL. Did the Senator's revised amendment deal with the issue where a challenger has won an election and there is a period between the challenger's election and the swearing in? Is that covered in the Senator's modification?

Mr. WELLSTONE. From the time of the election?

Mr. MCCONNELL. The hypothetical I am driving at is the lobbyist helps raise money for the challenger. Between the time of the challenger's election and swearing in, is that also part of the modification?

Mr. WELLSTONE. The way the modification is crafted it applies from the point of the contribution forward for one year.

Mr. MCCONNELL. I thank the Senator.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator yields to the Senator from Michigan for a question.

Mr. LEVIN. Mr. President, the main difficulty that I have with the amendment that was filed by the Senator from Minnesota was that it was so broad as it would cover small business people, farmers, labor unions, local officials, because if in fact they did any lobbying as part of their duties, they then would be in danger of violating the law if they had made even a $5 contribution to a beer bust. I do not think that was the intention of the original amendment.

Mr. WELLSTONE. That is right.

Mr. LEVIN. But the language was broad enough so that it probably covers those people.

My understanding of the modification is that the lobbyists that are covered under this are limited to those persons who are required to register under either existing law or who are required to register under any other law which might come into effect that requires persons to register as lobbyists and that those are the only persons that are covered just as those are the only persons covered in the bill that has a provision that the Senator from Minnesota is closing some loopholes on; is that correct?

Mr. WELLSTONE. Mr. President, the Senator from Michigan is absolutely correct, and I thank him for his help in clarifying that point.

Mr. LEVIN. I thank the Senator from Minnesota.

The PRESIDING OFFICER. Does the Senator from Minnesota yield the floor?

Mr. WELLSTONE. Yes.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I was asked to offer some comments about my views on the amendment with, I guess, the thought that somehow I might profess to have some constitutional expertise. I do not. I do not at all make that claim.

But it strikes me that we are coming dangerously close to abridging the first amendment here. Under this amendment, if you contribute to a candidate you lose your right to lobby for a year. You can lobby but you cannot contribute, or you can contribute but you cannot lobby. It seems to me that this amendment is going to present an enormous question for the Supreme Court to examine.

I am not satisfied with the clarification that was just mentioned about lobbyist being defined as someone who is required to register under existing law or who might be required to register under some future law.

I think the Senator from Michigan would concur that under the existing law few are required to register, or if they are in fact required to register, few do. Because there is sufficient ambiguity that exists in the law today, out of the thousands of people who are listed as lobbyists, very few of them in fact register.

It may be that the bill that was sponsored by the Senator from Michigan and myself will become law. We have no way of knowing whether it will or not. But it seems to me that this provision might, in fact, act as some deterrent to the support for our bill.

I am not going to raise a long-winded or serious effort to either defeat this amendment or speak at length on it, but I think we have to go back and reexamine this antipathy that has recently surfaced toward lobbyists. Lobbyists are those paid individuals who act on behalf of a large group of citizens who cannot afford individually to spend the time or the money to come to Washington to lobby or educate Members of Congress about their special interest.

I think we have to admit in this country that we are a collection of special interests. We are a collection of special interests, whether we are talking about farmers who want subsidies for their farm programs, small businessmen and women who would like to have accelerated depreciation for their investments in business equipment, or homeowners, the vast majority of middle-income Americans, who want to maintain their deduction for interest payments on their mortgages. They are all special interests. You can go down through the list of every single special interest and I think in every case you will find that they represent a legitimate point of view for their group.

I think that we are at a point in the history of our politics where suddenly the word politician has a negative connotation. We like to say public servant. Nonetheless, everything we do in this country is political.

If you are talking about reaching a compromise, "my right to swing my fist," as lawyers like to say, "stops where your nose begins." We have to compromise on the individual action. Some would like to drive a little faster than we are allowed to do. So, we have a 55-miles-an-hour limit that has been extended in some places to 65 miles an hour—a compromise between speed and safety.

Everything we do in life is a compromise, because there is more than one of us on this planet, and when you have more than one person you have to reach some accommodation, be it in a political form, in a marriage, or in any other kind of relationship. There are compromises to be made. So everything we do is a political statement of sorts.

So we hire people to make our arguments and work out our compromises for us, and now we paint them as ogres and as those responsible for polluting the political system. I think there is a danger in all of that.

What we have to insist on is full disclosure, as provided for in the Lobbying Disclosure Act. We want lobbyists to register. We want to know who is paying them how much and for what. The public is entitled and has a right to know that. We demand they know that. But full disclosure, it seems to me, gives the American people an opportunity to draw their own conclusion. If lobbyists contribute to the Senators from Minnesota, Kentucky, Oklahoma, or Maine, and we list those contributions, people can judge whether or not we are acting under the interest of our citizens or acting out of some sort of reciprocity to those who have contributed to us.

I would suggest, Mr. President, that the same notion of this nexus between money and pollution of the political process applies to individuals just as much as it applies to lobbyists. For example, if the president of a company should solicit all of his or her employees to contribute to our campaigns and we raise thousands of dollars as a result, and that president comes to our offices to lobby on behalf of his company's interest, is it any less corrupting than when the President alone has contributed and is in our offices urging us to follow a certain procedure? I think it is very much the same.

I think if we are trying to break the public perception that somehow we have been corrupted by the presence or the influence of lobbyists as such we have to reexamine our entire political process. Maybe we should adopt the position that anyone who contributes to us should not be allowed to urge our support or opposition on any given legislation, because the perception is somehow that we are responding to that contribution. So the easy thing to do is no more contributions, or if you contribute you cannot come to that Member's office to lobby.

While I do not know if others share the same concern, it seems to be that we are approaching a very dangerous point in our system where we simply put a label, the mark of Cain, upon the brow of those who are hired to represent people—whether it is senior citizen groups or business groups or labor groups or educational groups. If they are paid to urge a particular position or to provide information, they will now be precluded from either having lobbying contact if they make a contribution, or if they make a contribution, they can make no contact.

It seems to me that we are starting down a path which is going to lead us inevitably to a conclusion that anyone who contributes to our campaigns necessarily should be precluded from making their case on their own behalf.

I think most of my colleagues would suggest that that clearly would be a breach of the first amendment. That clearly is intolerable.

I am having a more difficult time distinguishing cases in which, if you are a lobbyist, you can no longer contribute because the connection will be seen as being undue.

I do not think anyone in this Senate would agree that they have been influenced unduly, or that they pay back the lobbyist or contributor with votes.

I have seen people who contribute to individuals because they feel that that individual best reflects their own philosophy of their own State's interest. I say this with as much candor as I can—I do not really feel I have ever been unduly influenced by anyone who has contributed to me.

If the public feels that way, they will have an opportunity to look down the list of my contributors and know that A, B, C, or D company or individual or lobbyist has contributed to my campaign. Then they have my voting record and they can decide: Was I acting in the interest of my State or was I acting out of some parochial interest in exchange for a contribution?

Mr. President, I assume there are the votes here to pass it. Very few would want to be seen as somehow being sympathetic to a lobbyist because they have become the evil and scourge of our system. If we do this, we will have to come to grips with this issue of the connection between people who contribute and people who do not.

I found myself making a case before the Chamber of Commerce some years ago when the issue of campaign contributions and constituent service arose. It came up in connection with the so-called Keating matter.

I raised a hypothetical to this group. If you asked the general public if they were outraged about the Keating matter, they said, yes, indeed.

Let us suppose a small company from Maine contacts my office and they ask me to please contact the IRS because they have been awaiting a decision from the IRS for a period of several years. They would like to sell their company, but they cannot sell until the IRS makes a decision. All they would like me to do would be to simply write a letter or pick up the phone and call the IRS and say, "Please make a decision one way or the other. You can rule against the company or you can rule for it."

I said, "Would you think, as a Senator, that I have an obligation to respond to that constituent's request that I, at least, should ask the agency to move as expeditiously as they can? This matter has been hanging like a Damoclean sword over the head of those individuals in that company."

The answer automatically was, of course, you should urge the IRS or any other agency to make a decision as quickly as possible.

I said fine. Now what happens if the head of that company had contributed to my campaign? Does that make it different now? Has there been a taint applied to the process? Is it improper if some company, or employees of a company, have contributed to my campaign and they then call upon me to make a call to an agency to urge, not a particular position, but simply expeditious action?

Well, that gets a bit more complicated, because the individuals had contributed to my campaign.

If you follow the line of logic, essentially you come to the conclusion that I could only represent or make a phone call on behalf of people who do not contribute to me.

In that situation I would feel that it was imperative that I take at least some nominal action, but I would be fully aware that someone might later argue undue influence.

We are getting to the point, I think where we are walking a very narrow line. But this amendment seems to me to cause that line to become even that much more narrow, as we are trying to trace what is the appropriate course for us to follow in dealing with the first amendment.

Mr. President, I think we are raising some serious constitutional issues as to whether a registered lobbyist can contribute to a Member of Congress and then lobby that Member at any time during the next year.

He or she is faced with a choice: You can lobby but not contribute, or you can contribute but you cannot lobby. I think that raises a serious constitutional question.

As I stated earlier, I do not intend to vigorously oppose the legislation. It seems to me that there is strong sentiment to go forward as rapidly as we can this afternoon. But I daresay we are inviting a constitutional challenge. I may be wrong on this, but I believe the Court would seriously consider striking it down.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, as always, my good friend from Maine puts his finger on some very critical issues.

One of the issues that he raises has to do with the vagueness of the current lobbying registration laws. And the reference to those laws in the bill creates a problem not because of what is in the bill but because of the vagueness of the lobbying registration law.

He and I are trying very hard to correct that vagueness and to remedy that and to put some teeth into those lobbying disclosure laws. And that is a bill which the Senate passed a few weeks ago.

But that problem, I think, in all fairness, is a problem which is fundamentally in a law referred to by this amendment and by the bill itself, rather than the problem of the bill or the amendment. It does, again, refer to a vague law, but the origin is in the other law, not here; the origin of the problem.

This amendment does not add any problem in that regard, because it is the bill which makes the reference to the registered lobbyist. And this amendment as modified—as modified, I emphasize—is limited to the same people as are in the bill.

It is the bill now which makes the reference. And, although the original amendment broadened the coverage to persons other than registered lobbyists, this amendment, as modified, is restricted to the same people covered by the bill.

So I do not think that that problem is a problem with this amendment, which is really a technical amendment, I think, now to make the bill more coherent and consistent.

Mr. COHEN. My reference to the ambiguity dealt with existing law.

As you and I know, existing law is quite vague on the thousands of lobbyists who register in the public directory but do not file with Federal officials. They fail to file because of the very ambiguity that you and I have worked to clarify. We want them all to be registered and to fully disclose why they are acting, on behalf of whom, and on what issue. We think that is important to maintain the public confidence and integrity of the system.

But that is only one issue involved in this particular discussion we are having.

Mr. LEVIN. That is issue number one. I think that issue, again, is an issue which exists in existing law and in the bill, but not in this amendment.

Mr. COHEN. Right.

Mr. LEVIN. Because this amendment does not expand that group. It uses the exact same group as is in the bill itself.

Mr. COHEN. If my colleague will yield further, what I was suggesting is that currently the law is virtually ineffective. It governs very few in the way of registering.

What I was suggesting is that you might have a countereffect. If you pass this amendment, you may very well have strong objection being raised, saying, we did not have any objection to the Levin-Cohen effort to clarify existing law, but now you are saying you are going to impose a further restriction. It is not simply registering and disclosing, but also contributing and lobbying.

What I am suggesting is the other body might seriously question whether the two pieces of legislation would in fact be self-defeating in terms of trying to get the lobbying disclosure act passed.

Mr. LEVIN. I think the Senator from Maine is correct. It could work that way. It could work the other way. It could give us additional incentive to pass our clarification since we are now putting even more meaning to that, and there are more implications by being registered or not, because of this bill as clarified by this amendment—it could give a greater incentive to pass that bill, since it has that much even greater significance. So it could cut either way in that regard.

My point here mainly is the problems that are raised by my friend from Maine are not really problems with the amendment any more, since it has been modified. But, really, the problem is with the underlying bill, to the extent there is a problem, and with the other law, the registration law that currently exists.

So I would think, as modified, this amendment makes the bill much more coherent. Because all it does is now say, as modified, that it is intended to cover staff as well as Senators. And it is intended to cover new Senators as well as existing Senators. I think that is the heart of this clarification and I would think now, with the modification, it is acceptable to me because it no longer has the broadening effect that the original amendment had.

So I can support the amendment, and I want to congratulate the Senator from Minnesota for seeking this clarification and improvement in the language of the bill.

I yield the floor.

The PRESIDING OFFICER (Mr. REID). The Senator from Florida.

Mr. GRAHAM. Mr. President, will the Senator from Minnesota yield for a question? I ask the Senator from Minnesota or the Senator from Michigan to yield for a question.

Mr. LEVIN. I yield the floor.

Mr. GRAHAM. I have been listening to this debate, Mr. President. First, with the assistance of the floor staff, I was trying to find the definition of lobbyist in S. 3. We were unable to locate it.

If someone could reference the page where the definition of lobbyist appears in S. 3?

But the definition of lobbyist does appear in this amendment. And the definition which begins on page 3 and carries over to page 4 states:

1, a person required to register under section 302 of the Federal Regulation of Lobbying Act—

Et cetera, which is the reference to existing law, "or," and that is in the disjunctive—

or a person required under any other law to be registered as a lobbyist (as the term lobbyist may be defined in any such law).

Is that the definition of lobbyist that is being utilized for the purposes of this amendment?

Mr. WELLSTONE. The Senator is correct.

Mr. GRAHAM. I cannot comment as to what item 1 means without having access to the United States Code. But as to item 2, "a person required under any other law to be registered," does that mean what it says; "any other law"?

Mr. WELLSTONE. The Senator is correct.

Mr. GRAHAM. So if an ordinance of the city of Detroit has a definition of lobbyist, or the Statutes of the State of Florida have a definition of lobbyist, that would also be incorporated as "any other law" which defines what a lobbyist is?

Mr. WELLSTONE. Mr. President, I think I know where the Senator is heading. We could modify this and talk about, "under Federal law," which I think would deal with the Senator's problem. I think the Senator is making a very helpful suggestion.

Mr. GRAHAM. So it is the intention it only apply to Federal definition of lobbyist?

Mr. WELLSTONE. The Senator is absolutely correct.

Mr. GRAHAM. I think we ought to modify it to that effect and then, if we are going to limit it to Federal definitions, why do we not state in the law, rather than by reference now to unidentified Federal laws, what it is we are talking about? Because we are putting some fairly Draconian standards here, in terms of what American citizens and Federal officials—both executive and legislative—can do. I believe we owe to all of those people the greatest degree of clarity as to who is covered.

Mr. WELLSTONE. Mr. President, I will be more than pleased to defer to the Senator from Michigan.

Mr. LEVIN. I believe this language is the same language as appears in the bill. We will check that out.

Mr. GRAHAM. If there is a definition of lobbyist in the bill, I would appreciate a reference to the page where it appears.

Mr. LEVIN. We are looking for that now. We think it says "or any successor law." But we are going to check that out.

This is printed on page 5851 of the RECORD. It is subsection (V), part (8)(B). I do not know—my friend from Florida has the RECORD? Do you have the page, 5851?

Mr. GRAHAM. No, I have S. 3, as it is printed, on the desk.

Mr. LEVIN. The substitute has the following language:

* * * a person who is required to register or report its lobbying activities, or a lobbyist whose activities are required to be reported, under section 308 of the Federal Regulation of Lobbying Act * * * the Foreign Agents Registration Act of 1938—

And then it says in the substitute—

or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities—

That is what is already in the substitute. It is my understanding of this amendment, and I specifically asked the sponsor of the amendment, is that intended—is his amendment intended to cover exactly the same people as are covered by the substitute? And his answer was "Yes."

Mr. GRAHAM. Just an inquiry. If that is what the intention is, why is that not the same language? Why do we need a separate definition of lobbyist for this purpose if there already is a definition of lobbyist in the managers' amendment, which is intended to cover the same class of people as for this one?

Mr. WELLSTONE. Mr. President, the answer is because we are still waiting to see whether the Lobby Disclosure Act will be passed, and in what form, and wanted to be as clear as possible in the legislation.

Mr. GRAHAM. But this amendment has its own freestanding definition of lobbyist. It says, on page 3, line 25, "the term lobbyist means," and then it proceeds on page 4 to define what lobbyist means, I assume for purposes of this particular prohibition. That definition is not the same definition as the Senator from Michigan read, as is applicable elsewhere in S. 3, although that definition does not appear in S. 3, as is printed.

All I am saying is we are about to impose some very serious constraints on people's first amendment rights and action. And if we are going to do so, let us at least be very clear as to who it is we are covering so people who want to conduct themselves in an honorable, legal way will have the maximum opportunity to do so.

Mr. WELLSTONE. Mr. President, having heard the brief argument by my good friend from Florida, I would be pleased to modify my amendment and to use the definition that is in the leadership substitute. We will be pleased to make that modification.

I think that would strengthen the amendment.

The PRESIDING OFFICER. The Senator from Florida has yielded the floor. The Senator from Oklahoma.

Mr. BOREN. Mr. President, if I might ask my colleague from Minnesota, I have been having discussions with the Senator from Maine and others, and the Senator from Kentucky. The Senator from Massachusetts is anxious to offer his amendment, to lay down his amendment, which I believe then would go to a vote after discussion by himself and others who will be coming to the floor to debate this matter. There will be others here wanting to speak on that amendment.

I inquire of my colleagues, I think we could do one of two things. The Senator from Maine suggests—I have discussed this with him and the Senator from Kentucky—we could dispose of this amendment with a voice vote, with the understanding if it needs some further modification, that will be done in conference; or, if the Senator wishes to again lay it aside just briefly until we make the modification, we could do so.

Mr. WELLSTONE. If the Senator will yield, Mr. President, I would in a moment simply request a modification with the definition of lobbyist in the leadership substitute. Then I think we will have met the objection. I would like to move forward with this, now, if possible.

The PRESIDING OFFICER. The Senator from Minnesota, of course, has the right to modify his own amendment. The personnel at the desk would have to see what the modification is, though, for purposes of being able to inform the rest of the Senate what the modification is.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum, so that we can prepare this modification and offer it in just a few minutes.

Mr. BOREN. Mr. President, since the Senator from Massachusetts is anxious to proceed, I wonder if we might be able to do this: If the Senator from Massachusetts could begin explaining his amendment so we do not waste time, perhaps by the end of his explanation, the Senator from Minnesota will be able to bring up the modification and we can dispose of that amendment by voice vote, at which point in time the Senator from Massachusetts can officially send his amendment to the desk and then it would become the pending matter. That way we will not lose time if the Senator from Massachusetts can begin.

We will be willing, when he completes his explanation—and I urge my colleagues to get the modification ready by then—we can take 1 minute to dispose of this amendment by vote and then have the Senator from Massachusetts officially send his amendment to the desk. If he can start his description of it and others speak about it, we

can get this all taken care of in due sequence.

The PRESIDING OFFICER. Is that a unanimous-consent request of the Senator from Oklahoma?

Mr. WELLSTONE. Reserving the right to object, and I will not object, I think that would be fine. I know the Senator from Massachusetts is ready to go, and I am very committed to the very important amendment he is about to explain. I will be pleased to do that with the understanding that we would now try to work out this language, and upon working out that language, we could bring this back to the floor and dispense with it.

This amendment is designed to sever the connection between the money and the lobbyist and big contributors' lobbying activity. I consider it to be a very important amendment. I would like to have this amendment agreed to.

Mr. KERRY. Mr. President, reserving the right to object, I inquire of the manager of the bill, is this not a simple enough modification we could take a moment until it is ready, rather than break up the process? If the manager believes it is going to take a fair amount of time, I am happy to proceed.

Mr. BOREN. Mr. President, let me just suggest that we suggest the absence of a quorum. This Senator may be off the floor for just a moment, but if I am off the floor at the time and the Senator from Minnesota will just present his amendment to be disposed of by voice vote—hopefully, if we can get the modification accomplished rapidly—we can do that. Both sides are willing to accept it by voice vote as soon as the modification is made.

Mr. KERRY. If it appears the modification will take longer, I will be happy to commence.

Mr. BOREN. That sounds like a good suggestion. In just a moment, I will suggest the absence of a quorum, after which time if progress is not made in very short order and the Wellstone amendment has not been disposed of, I will ask the Senator from Minnesota then to consider setting it aside so the Senator from Massachusetts may proceed. In order that we may accomplish that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 368, AS FURTHER MODIFIED, TO AMENDMENT NO. 367

Mr. WELLSTONE. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is modified as per the request of the Senator from Minnesota.

The amendment, as further modified, is as follows:

Strike all after "(b) PROHIBITION" and insert the following:

OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 314(b), is amended by adding at the end the following new subsection:

"(m)(1) A lobbyist or a political committee controlled by a lobbyist, shall not make contributions to, or solicit contributions for or on behalf of—

"(A) any member of Congress with whom the lobbyist has, during the preceding 12 months, made a lobbying contact; or

"(B) any authorized committee of the President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to, or solicited contributions for or on behalf of, any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution or solicitation, make a lobbying contact with such member or candidate who becomes a member of Congress (or a covered executive branch official).

"(3) If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

"(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

"(B) an authorized committee of the President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

"(4) For purposes of this subsection—

"(A) the term 'covered executive branch official' means the President, Vice-President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code;

"(B) the term 'lobbyist' means—

"(i) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activity or a person required under any other law to be registered as a lobbyist (as the term 'lobbyist' may be defined in any such law).

"(C) the term 'lobbying contact'—

"(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

"(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

"(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

"(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

"(ii) does not include a communication that is—

"(I) made by a public official acting in an official capacity;

"(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

"(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

"(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

"(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

"(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

"(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

"(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

"(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

"(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

"(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

"(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

"(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.".

"(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

"(i) the member of Congress;

"(ii) any person employed in the office of the member of Congress; or

"(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, rep-

or acts as the agent of the member of Congress.".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 368), as modified, was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I just would like to thank both the Senator from Oklahoma and the Senator from Kentucky. I would like to thank the Senator from Michigan for his help on the floor and the Senator from Maine for his helpful suggestions.

I want to say one more time to my colleagues, I fully appreciate the discussion that has taken place. It is my own strong view that, to the extent we can break the nexus between the lobbying activity and the giving of money, we must do that. This amendment strengthens considerably the lobbying prohibition in this bill. It represents, I think, a substantial reform. I think it is the kind of step people in this country want us to take, and I am very pleased the Senate has agreed to this amendment.

Mr. BOREN. Mr. President, I understand we have approved the amendment in the second degree. We still need to approve, I assume, the underlying amendment. So we still need to act upon the Wellstone amendment, the underlying amendment, as amended.

The PRESIDING OFFICER. Is there further debate?

Mr. WELLSTONE. Mr. President, I ask unanimous consent to vitiate the yeas and nays.

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

The PRESIDING OFFICER. The question now is on agreeing to the first-degree amendment, as amended.

The amendment (No. 367), as amended, was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator for Massachusetts is recognized.

AMENDMENT NO. 381 TO AMENDMENT NO. 366

(Purpose: Creates a purely voluntary public funding system for eligible candidates)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachussets [Mr. KERRY], for himself, Mr. BIDEN, Mr. BRADLEY, Mr. SIMON, Mr. WELLSTONE, Mr. FEINGOLD, and Mrs. BOXER, proposes an amendment numbered 381 to amendment No. 366.

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

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

The amendment is as follows:

On page 17, strike line 22 and all that follows through page 37, line 5, and insert the following:

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), the amounts determined under this subsection are—

"(A) the public financing amount;

"(B) the independent expenditure amount; and

"(C) in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the public financing amount is—

"(A) in the case of an eligible candidate who is a major party candidate and who has met the threshold requirement of section 501(e) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate under section 502(b) (without regard to paragraph (4) thereof) reduced by the amount of voter communication vouchers issued to the eligible candidate and the amount of the threshold requirement of section 501(e); and

"(B) in the case of an eligible candidate who is not a major party candidate and who has met the threshold requirement of section 501(e) during the general election period, an amount equal to the amount of contributions received during that period in excess of the threshold requirement under section 501(e) in the aggregate amount of $250 or less, up to 50 percent of the general election spending limit under section 502(b).

"(3) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

"(4) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(C) is not greater than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $250 or less, up to 50 percent of the general election spending limit under section 502(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The aggregate amount of voter communication vouchers issued to an eligible Senate candidate during a general election period shall be equal to 50 percent of the general election expenditure limit under section 502(b) (25 percent of such limit if such candidate is not a major party candidate).

"(2) Voter communication vouchers shall be used by an eligible Senate candidate—

"(A) to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate, except that any broadcast so purchased must be at least 60 seconds in length;

"(B) to purchase print advertisements during the general election period; or

"(C) to pay for postage expenses incurred during the general election period.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1)(A) An eligible Senate candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (3) and (4) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

"(B) In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit under section 502(b) with respect to such candidate shall be increased by the amount (if any) by which the excess described in subsection (b)(1) exceeds the amount determined under subsection (b)(2)(B) with respect to such candidate.

"(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

"(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(e) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(j), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 503, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATION AND AUDITS.—(1) The Commission shall conduct an examination and audit of the candidates' campaign accounts in 10 percent of the elections to seats in the Senate in each general election, and of the candidates' campaign accounts in each special election to a seat in the Senate, to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a general election to a Senate seat for examination and audit, the Commission shall examine and audit the campaign activities of all candidates in that general election whose expenditures were equal to or greater than 30 percent of the general election expenditure limit under section 502(b) for that election.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 501(d); or

"(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to the sum of—

"(i) three times the amount of the excess expenditures plus an additional amount determined by the Commission, plus

"(ii) if the Commission determines such excess expenditures were willful, an amount equal to the benefits the candidate received under this title.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid within 30 days of the election, except that a reasonable amount may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(g) PAYMENTS RETURNED TO SOURCE.—Any payment, repayment, or civil penalty required by this section shall be paid to the entity from which benefits under this title were paid to the eligible Senate candidate.

"(h) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to any entity from which benefits under this title were paid.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

"(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund (and any account thereof).

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe (in accordance with the provisions of subsection (c)) such rules and regulations, to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rule or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE SENATE CANDIDATES.

"No eligible Senate candidate may receive amounts under section 503(a)(3) or vouchers under section 503(a)(4) unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"SEC. 510. SENATE ELECTION CAMPAIGN FUND.

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the Senate Election Campaign Fund (hereafter in this section referred to as 'the Fund').

"(2) There are hereby appropriated to the Fund the following amounts:

"(A) Amounts received in the Treasury which are equivalent to the increase in Federal revenues by reason of the disallowance of deductions for lobbying expenditures, but only to the extent that; (i) such amounts do not exceed the amount certified by the Commission as necessary to carry out the purposes of this title; and "(ii) such amounts do not exceed the amount designated by taxpayer on a Federal election campaign checkoff.

"(B) Amounts transferred to the Fund under any provision of this Act.

"(C) Amounts credited to the Fund under paragraph (3).

"(3) The Secretary of the Treasury shall transfer amounts to, and manage, the Fund in the manner provided under subchapter B of chapter 98 of the Internal Revenue Code of 1986.

"(4) Amounts in the Fund shall, subject to the availability of appropriations, be available only for the purposes of—

"(A) providing benefits under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(5) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Fund.

"(c) VOUCHERS.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary of the Treasury shall, subject to the availability of appropriations, issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment, or issuance of a voucher, to an eligible candidate, the Secretary determines that the monies in the Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the Fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the Fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1994.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. . (c) SENSE OF THE SENATE REGARDING PRESIDENTIAL CHECKOFF.—

It is the sense of the Senate that—

(1) the current Presidential checkoff should be increased to $5.00 and its designation charged to the "Federal Election Campaign Checkoff and individuals should be permitted to contribute an additional $5.00 to the fund in additional taxes if they so desire; and

(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to increase citizen participation.

Mr. KERRY. Mr. President, we have been engaged in the last few days in a good discussion about how best to reform the process. We have disagreements, obviously, among us as to what that methodology is. Some oppose setting any limits, some oppose any form of public funding, and there are, indeed, other differences on other issues.

But the principal issue of this bill is really whether the U.S. Senate is going to set limits on the arms race of fundraising that takes place. There is not one of us who has not sat at a lunch table or had a private conservation at some point and talked with each other about the absurdity, even the degrading aspects of it, the ways in which we are all subject to the very kinds of questions that the distinguished Senator from Maine [Mr. COHEN] was asking about a moment ago.

We are, indeed, marching down a difficult road here where, in the effort to reform so that we can keep collecting fairly big money, we create a lot of rules that will govern the giving of the big money. We are going to be subject to trying to interpret the rules of the giving of the big money in ways that are probably going to submit a lot of people to some embarrassing and possibly even some more serious consequences.

The Senator from Maine a moment ago, in his colloquy with the Senator from Michigan, asked the question: Maybe the only solution is that we are not accepting contributions because that is the only way to stay pure with respect to the encumbrances that we place on ourselves to try to be pure.

The answer to the question maybe, that is, the only way to stop the problem is not to accept money, is to look at a public system, a system of campaign finance reform where you minimize each individual Senator's or can-

exposure to the fundraising process, where you minimize the amount of time that each of us must take up in fundraising, and where you minimize the amount of money that each of us must raise. That is the way you protect each of us the best: Minimize the exposure to money, to time, to amount of money.

So the question is: How do you best minimize the exposure? How do you best minimize the time? How do you best minimize the amount of money you have to go out and raise?

There is a threshold issue, obviously. Yesterday we debated it a little bit. Why are we here debating these reforms? Some Senators come to the floor and complain saying, "I don't like this because it makes us all look like we are on the take or we have a problem." Obviously, none of us like that.

How do you minimize that problem? Because that problem is a direct outgrowth of the fact that we go out and raise a lot of money. It has been going on for years. This is not a problem that arose in 1993.

This is a problem that has been around us for a long time. And as Senator BIDEN said so eloquently, he is tired of having to go home and explain to people the negative side, the fact that he is not on the take; that he is not somebody who is being influenced by money; that he does not want to have his lifetime consumed, as none of us do, in the effort to try to prove that we are not what the public thinks the entire Congress is.

Now, some people want to fight this perception. I just share with my colleagues ancient history. I am not going to try to pick on the present because I am not seeking to find current embarrassments or current problems. But I think we have to acknowledge the reality of what we are confronting right now.

In 1988, U.S. News & World Report did a major analysis of the linkage between money and legislation, a major analysis, if you will, of the downside of the fundraising arms race. It is a problem of perception. A lot of us do not believe we are creating the perception. A lot of us do not believe we are lending to the perception. But for whatever reasons, the fact is the perception is there. It has been there for a number of years. It is growing worse, not better. And each and every one of us in the Congress is subject to all of the negative connotations of those perceptions.

I will very quickly share just a couple of examples with colleagues.

In 1988, U.S. News pointed out how corporations such as LTV, Northrop, Texas Air, Monsanto, had been cited in a whole spate of articles regarding their contributions to the campaign coffers of Senators who were active on key issues pertaining to those corporations. The Senators were not accused of any specific wrongdoing, but the magazine pointed out that this was the implications of the nexus between the contributors, the money, and the officials.

People raised the perception issue about each of these Senators. It was publicly dragged through the newspapers. People were dragged through the accusatory process. And the accusations were that there was a quid pro quo, money-for-influence transaction—the appearance of corruption.

I would suggest that we have all come to the floor and basically acknowledged the appearance of the corruption in the soft money and PAC's; we have outlawed it. So we know there is a connection of money to appearance. And in this article it pointed out how there were specific linkages of legislative action to very large donations.

The LTV Corp. and the Wheeling-Pittsburgh Steel Corp. both lobbied aggressively for legislation that facilitated their claim to $144 million in tax refunds, despite the fact that prohibitions against those refunds existed where a corporation had done what those very corporations had done, which is cut off the pension plan payments to retirees. So they spent $201,304 in very targeted campaign contributions, some of them directed to two key Senators on the very legislative committees pertaining to that legislation. And all those companies that have revoked the pensions for over 100,000 retirees, they were allowed to claim relief under the new law in a special provision put in for them by the committee on which those two legislators sat.

Now, whether or not those two legislators did it, the appearances of impropriety screamed out at everybody so much that newspapers and others made direct allegations of impropriety.

Another example: Northrop Corp. sent well over $250,000 in PAC money to Congress in 1988. And it did so literally at the very moment that the Tacit Rainbow project came up in the Senate. Several thousands dollars were contributed directly to the campaign of a chairman of one of the committees of jurisdiction. And although the antiradar project had failed four flight tests, it had accrued enormous cost overruns, $180 million was budgeted for its continued development and the conflict of interest at the level of appearance once again surfaced in the press.

Now, I can go through a lot of other examples of this—and I am particularly choosing examples of a few years ago because I think we all understand that there is a vulnerability within this institution on the issue.

Without belaboring it, without going back to all of the examples, I come back to the questions I asked a moment ago: How do you get rid of this perception? How do you minimize our exposure? How do you maximize the cleanliness, if you will, of this process?

I am proud to be joined in sending this amendment to the desk by Senator BRADLEY, Senator BIDEN, Senator SIMON, Senator WELLSTONE, Senator BOXER, and Senator FEINGOLD. Each of the cosponsors believe very deeply that the best way to distance us from the possibilities of exposure to the perceptions, and the best way to maximize our time as Senators on legislative work here in Washington, is not to gallivant around the country raising money in places that often have very little relationship to our home States except for the fact that there are rich people there who contribute. The way in which we maximize our shield against the perception of impropriety is to reduce the amount of money that is in the campaign process and to minimize our need to raise it.

So Senator BIDEN, Senator BRADLEY, Senator FEINGOLD, Senator BOXER, Senator WELLSTONE, Senator SIMON, and I are sending to the desk an amendment that is different from the public funding mechanism in the underlying bill.

This amendment requires zero mandatory expenditure of any Federal money. What we are proposing is that through a purely voluntary—and I emphasize voluntary—system by which each American citizen can choose whether to support the campaigns or not, we are proposing that you have the full funding of general election campaigns only by virtue of the money raised through that voluntary donation process.

Now, I would emphasize this amendment does not add to the deficit. It makes no mandatory expenditure of Federal money. To whatever degree Americans choose voluntarily to participate, it is offset by eliminating the deduction for lobbying just as in the Mitchell-Boren bill.

I might add, in the alternative, I support wholeheartedly their proposal. It has very significant campaign reforms in it. I think each sponsor of this amendment feels that way. But it is also our belief that we could do more to provide the distancing I talked about and to facilitate the fundraising process.

Now, we are proposing also to fund whatever offset is necessary, according to the voluntary choice that Americans make by taking money from the campaign, from the lobbying deduction that corporations now have. It is impossible to justify to the average American who feels just as strongly about telephoning their Senator or their Congressman or writing letters, to have an influence in this country, why those telephone calls and those letters or their organizational efforts are not deductible but big corporations and other entities that want to come to Washington, spend a lot of money, pay for a lot of lobbying efforts, gathering a lot of information, can deduct that effort.

So it is highly appropriate that we say we are going to equalize this; that the average citizen deserves their voice to be heard in Washington just as much as any large interest. And the average citizen of this country should not have money coming out of their hard-earned tax dollars supporting lobbyists who are, indeed, lobbying against their very interests, which is what happens today.

So in our amendment we are saying to Americans, if you do not want any of your tax money to fund a campaign, so be it. If you like the current system, where it is big money that deprives you of a voice, if you like the current system where PAC's can give $15,000 but you may only be able to scrounge up $15 of your hard-earned money, then keep it. But if you want your voice restored, if you want to give back to Americans the voice they deserve, then take $5 of your money and check it off just as you do for the Presidential race and allow it to go to campaigns.

That is all this says. Give Americans the choice. Let each citizen in this country decide whether or not they want to fund a campaign and liberate their U.S. Congress from the special interest process.

It is free choice. This is the heart of what we are supposed to have in America in this amendment.

Some Senators will say: Wait a minute, I do not like public funding. This is not mandatory public funding. If you do not like the current bill, then you ought to vote for our amendment because our amendment in fact reduces the amount of mandatory expenditure of Federal money. It leaves it up to Americans how much they want to spend. It respects each citizen's ability to make up their own mind.

And if you are not willing to vote for it, it somehow suggests that you, Mr. Senator, or Madam Senator, know better than the average citizen what they want to do with their tax dollar with respect to the choice about funding campaigns which is different as we know from all the other choices that we make here in the representative democratic process.

We have already enabled this kind of choice, because since the 1970's and Watergate, we have had a system where we fund Presidential races that way.

Americans have chosen to participate in that process. From 1973 to now, on average, 20 percent of Americans have checked off $1, and each year we raise $27, $31, $33, $41, $34, $33, $32 million, because 32 million Americans made the choice.

I respectfully suggest that we ought to have enough respect for the average American to say: You choose whether you want to liberate the Congress now, too, and allow them the opportunity to be free of the special interests. That is the way you answer the question of the Senator from Maine.

How do you guarantee that you are not going to get trapped in this process of deciding? The way you guarantee you are not going to get trapped is not to have to raise those dollars. And the way you guarantee that is by permitting each American to check it off on their tax form.

I have heard the argument made here that somehow this process represents an incumbent protection system. I want to address that for a moment, if I may.

It is very clear, Mr. President, that the current system is the incumbent protection system. The current system is the incumbent protection system. Under the current system, in the last cycle, in 1992, Republican incumbents, of whom there were 12, raised $5,553,000; Democratic challengers to those Republican incumbents only raised $2,500,000, half the amount of money for the challengers versus the incumbents under the current system. Under the current system, Democratic incumbents raised $23,487,000; versus Republican challengers who raised far less than half against them, $1,158,000.

Mr. SIMON. Will my colleague yield just to clarify? He is not talking about the total expenditure. He is talking about the average expenditure per candidate. So when you talk about $5.5 million, you are not saying throughout the Nation. This is per individual candidate.

Mr. KERRY. That is correct. I thank the distinguished Senator from Illinois for helping to clarify this chart. It is a very important point.

We had some individual Senate candidates who spent $20 million apiece for a seat in the U.S. Senate. We had people spending $10, $12, $7 million, each. In my State of Massachusetts, during the last cycle, we had to raise some $8 million to run.

This is the average. But under the average, it is clear the incumbent protection act is the system we have today. If you want to change it and make it fairer, then you say to any person who wins the nomination of a party, or if they are an independent candidate, you have a right to have a fully funded general election just the way our Presidential candidates do. That will minimize the fundraising time. It cuts in half the amount of money you have to raise. And it reduces your exposure.

Most importantly, for those who care about democracy, you are talking about a $5 contribution. Think of what it would mean in this country to have the general election campaigns of the U.S. Senators funded by $5 contributions from anonymous people. You do not know who gave you the money. People who care about liberating their Congress from the special interests are the ones who gave it. But whether they be Democrat, Republican, or Independent, they have given it because they want us to end the charade of pretending we are trying to set up a system that will help challengers, when in fact the current system is so antichallenger it is incredible.

I would like to review a couple of other things of the 1992 cycle. Congressional candidates spent about half-a-billion running for office, and every penny of that was from private interests. I would not complain, I do not think many people would, if all of that money came from the small interests, if it came from the small folks, but the fact is most of that money came from the few who could afford to give $500 or up to $1,000 to politicians, or from PAC's that gave $5,000. That disenfranchises most Americans. What you are really saying to the people is the important money in America is the big money, and we are not going to try to encourage the small money participation.

In 1992, candidates for the Senate received an average of over $1.5 million in big money and PAC contributions; $1.5 million in big money, compared to $650,000 that they received on average from the smaller contributions of $100 or less. And Democrats relied as much on the big money as Republicans did.

By contrast, as I pointed out, there was this enormous difference between the challengers and the incumbents. We know that there are those Senators in opposition to any kind of giving Americans the choice program who try to say that we are not interested in the facts when we are dealing with this issue. But I believe that the facts show without any question that the current system favors incumbents, whereas the system we are proposing would assist people to enter into the process.

One of the big issues we face here on the floor has been the questions of EMILY's List and private fundraising efforts through bundling and so forth. The fact is women candidates, minority candidates, people who do not have access to the corporate board rooms and PAC's have an enormous opportunity to be able to run for office if there is a system that says you only have to raise a small amount of money to get over the threshold. And at some point if Americans want it to be, there is a system that frees you from the special interests and still allows you to be on television and reach Americans.

We hear Senators, and I have heard these arguments in the past, say: Wait a minute. Here come those people. They want to put their hand into the public cookie jar. They want to take public funds.

Here is the answer. There is no taking here; there is a voluntary offering by Americans if they choose to liberate us from the big money.

But second, what is extraordinary to me is the very people who raise that issue have also been some of those who over the years have collected huge

amounts of public money running for President of the United States, or supported the program where people get that kind of money. I mean we have candidates here in the U.S. Senate who have run for President, who do not vote for this, but who have personally accepted public money running for President of the United States.

Mr. President, I respectfully suggest that there is not one of our candidates who has run for President for whom the acceptance of public money was an issue when they ran for election or reelection in their Senate races.

Not one was told I am not voting for you because you took public money to run for President. We are asking, in this case, only for a voluntary system that respects the right of Americans to be able to choose.

President Bush, in the course of his running for President of the United States, accepted $125,626,000 of public money. Ronald Reagan accepted $90 million. If you add George Bush to the times he ran with Ronald Reagan, he is over the $200 million mark in accepting public money. Jerry Ford, $26 million. Pat Robertson, $9 million. BOB DOLE, $8 million. Jack Kemp, $5 million. Buchanan, $5 million. Baker, $2 million. There is Senator HOLLINGS from South Carolina; the Senator from Iowa, Senator HARKIN; Senator GORE, now Vice President GORE; and none of them ever heard a word about accepting this money in their races, because it is not an issue.

Americans want a system that is campaign clean and corruption perception free. The way you get that, I believe, is by a voluntary system.

So, Mr. President, there are others who want to speak on this issue. But, in sum, let me say, if we are going to debate this issue, let us debate what we are really proposing. Let us not set up a red herring and then rip it down. Let us debate the real program. We are proposing a voluntary checkoff.

No American citizen who does not want to support this program has to. Only those people who choose to check it off will support it, and to whatever degree Americans choose not to support it, we allow candidates to go out and raise the money up to the $1,000, as they do today, with a year's notice prior to the fact that they are not going to have sufficient funds.

I respectfully submit to my colleagues that, given the participation in the past on this issue, all you need are 10 million Americans to participate—10 million Americans to check it off. We have not even asked Americans to participate since 1974 in this system. And we have certainly not given Americans any great, good cause to feel that they want to do it spontaneously because they think the system is so terrific and is working so well. To whatever degree the participation has trailed off—and it has a little—you can notice that it started right in 1984 or 1983, right when the deficit problem grew the worst, and right about when we introduced Gramm-Rudman-Hollings in an effort to do it.

We all know that was the time when there was a seminal change in this country in the perception of the American voter toward the Congress and the political process.

So I ask my colleagues to examine this. All of the polling data shows that even if you load up a question in the worst way, and even if you load up a question to say to a voter, would you want your money to support a Communist running for office, or somebody of an alternative lifestyle you do not like, the answer is that if that donation would reduce the amount of big interest money, if it would reduce the exposure of the Congress to special interests, they say, yes, we will support it, by 61 percent. If you do not load up the question in some way to get a negative answer, more than 70 percent of Americans will support a voluntary public funding if they are also getting reform in the process.

So, Mr. President, I hope that colleagues this year will say that this is the simplest, easiest, fairest way of opening up our process of eliminating the problem of incumbency protection and, finally, being fair in the process of creating campaign finance reform.

I yield the floor at this time.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, there are plenty of good reasons for campaign finance reform. They include making elections more competitive, reducing the influence of special interests on Congress and, of course, simply helping to restore public trust in Government. But I especially congratulate the junior Senator from Massachusetts and rise to support his amendment for another reason.

There is another glaring need for campaign finance reform. The Senator was talking about this reason in a good part of his comments, and that is the need to reduce the amount of time candidates and officeholders have to spend raising money.

I know there is not a whole lot of sympathy for Senators and Members of the House who have busy schedules and, frankly, there should not be. With all of the long-term problems our country faces, the public should expect the Members of Congress to be working overtime on the issues facing the country. Many of us do work long hours.

As a freshman, I can attest to the very real need for me to spend a great deal of time studying, reading, discussing the ever-changing myriad of issues we consider in the Senate. There is a lot to be done, especially at this time with the bills that are before us. The country is clamoring for us to get things done here.

Unfortunately, today's system of financing campaigns, and the truly obscene amount of money spent on campaigns, makes it extremely difficult for many Members of Congress to really focus on the issues. The average successful Senate candidate spends about $4 million. That works out to about $1,800 every day that needs to be raised over the course of a 6-year term.

Fortunately, I have spent very little time on fundraising in the few months that I have been here. My time has been taken up working on my new job. That ranges from attending Aging Committee hearings on the high cost of pharmaceuticals and the need for long-term health care; it includes early morning briefings from the Congressional Research Service experts on how the archaic Federal milk marketing order system can be changed to help our Wisconsin dairy farmers. I participated in a series of critical Foreign Relations Committee hearings focused on restructuring our foreign assistance programs to reflect the end of the cold war; and I have spent, in really only 4 to 5 months, countless hours poring over budget materials, looking for ways to achieve what I consider to be my overriding goal, and the overriding goal of many of us, which is reducing the Federal deficit.

I have received requests to cosponsor more than 350 bills and resolutions from my Senate colleagues, and I have tried to spend time studying these proposals. I have met with hundreds of Wisconsinites, getting their ideas on how we can make the Federal Government work better and hoping to be more responsive to the needs of the Wisconsin community.

I know as well as anyone—better than most—the daunting struggles as an underfunded challenger. In my campaign in 1992, I had three opponents, two in the primary, a wealthy businessman and a very powerful Member of the House of Representatives. In the final election, I had to face a very well-financed incumbent Senator. Altogether, they spent $12.2 million, compared to the less than $2 million my campaign spent. We were outspent by better than 6 to 1, and I cannot begin to describe the time and effort it took to raise even the relatively modest amount of money my campaign spent.

What I want to say today is a little different. I think an equally serious problem is now fundraising activities can dominate the time of a Member of Congress after the election, after they are sworn in.

During my campaign for the U.S. Senate, I had occasion to visit Washington a few times. During one of those trips in 1990, I had a nice conversation and the opportunity to visit with a distinguished Senator who was up for reelection that year. This Senator was one of the most respected Members of the Senate, but he was exhausted and

exasperated from the combined drain of trying to raise millions of dollars and finding time to do the job the voters elected him to do. He was literally sprawled on the couch of his office wondering aloud if it was all worth it.

I know it is hard feeling sorry for a politician, even for a politician; but at that moment, I did. I was even more sorry for the people he represented, because at that moment he simply was not able to give them the kind of representation they deserved and that I know he wanted to deliver.

We ought to have a system which encourages both candidates and incumbents to spend their time working on the issues that the people who vote for them care about, not spending their time asking for campaign donations. There is simply too much money in politics these days. The best way to reduce the influence of money in politics is to reduce the amount of money that can be spent on political campaigns and to provide that public financing, so that both incumbents and challengers do not have to spend so much of their time raising money.

That is why I feel as strongly about this amendment as any amendment I have had the chance to vote on since I have been sworn into the U.S. Senate. I feel this provision of the Senator from Massachusetts would make the tremendous difference that we need to reform not just campaign finance, but to reform the way this Government works.

Until these changes are enacted, the pursuit of campaign contributions will continue to dominate not only election campaigns, but the time, energy and attention of elected officials after they have been sworn in. That is not good for anybody and, in my view, it is a terrible disservice to this country.

So I am delighted with this amendment, and I urge the body very strongly, not only for purposes of campaigns, but for our own ability to perform the jobs that I know all of us want to do, this amendment would make the critical difference.

I yield the floor.

Mr. SIMON. First of all, I agree with our new colleague from Wisconsin, and his remarks illustrate why he has made the impression on so many of us that he is going to be a solid, substantial Member of this body.

I am pleased to rise in support of the amendment offered by our colleague from Massachusetts, Senator KERRY. I would disagree with him on one thing, if my colleague will forgive me for disagreeing with him here. I agree with 95 percent of what he had to say, but he talked about the perceptions of impropriety under the present system.

I say to my friends, it is a lot worse than the perception of impropriety, it is simply impropriety. And it affects all of us. I have never promised anyone a thing for a campaign contribution all my years in politics. But if someone who has raised money for me or made a $1,000 campaign contribution calls, that phone call is more likely to be answered than one from someone from my State who calls and says he or she is out of work and is desperate for help.

What I am willing to say publicly is true for every one of us. We simply cannot, in a State with 12 million people—I forget how many people are in Nevada, the State of the Presiding Officer; or the State of Massachusetts; or the State of New Jersey. But we simply cannot answer every phone call. Whose phone calls do we respond to? Too often, it is those who are generous enough—and from our perspective, wise enough—to contribute to our campaigns.

So the financially articulate have inordinate access to policymakers. That is the reality. We know it, whether we are willing to admit it publicly, or not. Every Member of the Senate knows it. My good friend from Rhode Island, who just walked in, knows this. We all know this. And the public knows it. The public understands how corrosive this system we have of financing campaigns is. There is just no question about it.

The bill that is before us, without this amendment, is a step forward. But I have to say, I think it is a modest step forward. What this does, this amendment says: Let us really face up to the problem. And I think we owe the American people that.

Let me tell you about a measure I am working on right now. It will be debated on the floor before too long, right here on the floor of the U.S. Senate, and that is direct lending for students. It is very clear that almost all the higher education associations are for this. The United States Students Association, the American Council on Education, you name them, are supporting direct lending. It is good for taxpayers. We are going to reduce the student loan default. We will save money we now give to these middlemen in the process. We are going to save billions of dollars, $4.3 billion, if we accept the President's recommendation.

But our friends in the banking industry—and they are our friends—are on the other side. They make more per loan on a student loan where they do not take any risk than they do on the average car loan or real estate loan. They would like to keep this. And our friends in the secondary market, the Student Loan Marketing Association, Sallie Mae—we set this thing out. The President of the United States appoints board members. Do you know what the salary of the chief executive officer of Sallie Mae is? It is $2.1 million, more than twice as much as the chief executive officer of Sears. And yet it is dealing in Government-guaranteed bonds. The number five executive gets $726,000. The President of the United States gets $200,000.

Who is going to be in a situation to contribute more to campaigns; that citizen who is out of work in Illinois, or Massachusetts, or some other State, or the CEO of Sallie Mae?

What you have in this debate, you will have the financial communities overwhelmingly on one side, and the students, their parents, and the taxpayers overwhelmingly benefited on the other side. And in that kind of a debate on a Higher Education Assistance Act—this is not called the Banking Assistance Act or the Sallie Mae Assistance Act—in that kind of debate, it ought to be overwhelming where it is going to come out. But it is going to be close. Why? Because of the way we finance campaigns. There is just no question about it.

So I think our colleague from Massachusetts is right on target. I think we have to recognize we are performing a disservice to the public, and to this country we love, by the way we finance campaigns right now.

I know the odds are against the Kerry amendment passing, but what a great day it would be for the Nation if we summed up enough courage and did what was right.

I am going to support it. I am proud to be a cosponsor. I hope we do the right thing.

I yield the floor.

Mr. KERRY. Mr. President, I would just like to thank the Senator from Illinois for his eloquent comments. I think it takes a lot of courage to come down here and lay it out the way it is, and the way most of us know it is, although some try to avoid it.

I think the Senator said it in very straightforward and important terms. I thank the Senator for his support on this.

Mr. SIMON. Mr. President, I thank the Senator for his generous comments and for offering the amendment. I know the Senator's offering the amendment offends some of our colleagues.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I rise today in strong support of the amendment offered by Senators KERRY, BRYAN, BRADLEY, SIMON, FEINGOLD, and WELLSTONE, because I believe it provides for the strongest reform of our political system.

The pending amendment is the only proposed reform that will take the money out of general elections. Opponents of this amendment have argued that the price is too high, that the taxpayers will not want to bear the cost.

But, Mr. President, this amendment does not finance reform on the backs of ordinary taxpayers. It is financed by lobbyists, who make millions, and millions, and millions of dollars as a group.

Let me tell you why I think this amendment is important. To run for the U.S. Senate from my home State of

California, candidates need to raise in excess of $10 million. As a matter of fact, Mr. President, they are looking at a gubernatorial race there in 2 years, and candidates are speaking about having to spend $20 million.

But let us consider the $10 million figure, which is what this Senator spent. That means, to mount a successful reelection campaign, an incumbent Senator from California must raise an average of $32,000 per week. That is $4,500 per day, every single day for 6 years.

Now, in the course of debate, the junior Senator from Kentucky has persuasively argued that these staggering numbers are somewhat misleading, because most Senators raise the vast majority of their funds in the final 2 years of their term. So let us consider that scenario. To raise $10 million in 2 years, an incumbent Senator would have to raise over $95,000 every week—$13,700 every single day.

That is a daunting task. But I know that if I tried my best—if I worked really hard at it, and spent hours and hours away from my job, on the phone dialing for dollars, I could raise that money.

But, Mr. President, the people of California elected me to be their U.S. Senator—a legislator, not a fundraiser. I am not running the United Way. I could do a good job running the United Way, and someday maybe I will wind up in a position like that. But right now I want to be the best Senator that I can be. I came to the Senate to fight for what my constituents believe in, not to spend hours on end building up a war chest for my next campaign.

So how do we do it, Mr. President? How do we end the money chase? And why do I believe that full public financing in the general election is the answer?

The Senator from Massachusetts and his coauthors have provided us with a scenario that works. We know it works in Presidential races. I have not seen anyone, during the course of this debate or any other, suggest that we rescind the public financing for Presidential races. We know it works, and we know it will work in the U.S. Senate.

Mr. President, the underlying bill will not end the money chase. Let us be very clear on that. It tinkers around the edges.

Consider this: The spending limit set by S. 3 for the State of California is nearly $9 million. The leadership substitute would provide $1.1 million in publicly financed communication vouchers. That means that successful candidates would need to raise nearly $8 million. So, yes, it is an improvement from the $10 million that I spent, but really, it is still an enormous sum of money.

I have proven that I can raise a lot of money, so my support of this amendment is not selfish. As a matter of fact, it could be detrimental to me, because not many in this country could raise this kind of money. I was fortunate. I was able to raise 90 percent of my contributions from individuals, not PAC's. My average contribution was about $100.

But still, I know how it feels to worry constantly about being able to pay for your campaign, so you can answer the charges of your opponent. You need to be calling people day in and day out.

Mr. President, I have to tell you this: Sometimes I got physically sick at the thought of asking one more person for one more dollar.

I have heard the junior Senator from Kentucky talk about public financing as "food stamps for politicians." And that was a nice sound bite on the radio. We heard that for days—"food stamps for politicians."

Well, I have a question to ask: Was it food stamps for Ronald Reagan? He took public financing and I did not hear the Senator from Kentucky [Mr. MCCONNELL] say President Reagan was taking food stamps. Was it food stamps for George Bush? He took public financing; millions of dollars. Was it food stamps for Pat Buchanan? He took 3 cents of every dollar, more than Jerry Brown and more than Paul Tsongas. Pat Buchanan hates food stamps, but he took public financing.

Public financing is not food stamps. It is patriotic, because it frees our nominees to do what they should be doing—studying issues, meeting the people, making visits to schools and hospitals, writing speeches, reading articles, books, newspapers, magazines, and, yes, Mr. President, maybe even having a few short minutes to spend with their families.

I think we need real change, real reform—reform that takes the money out of general elections.

I think this vote is a watershed vote.

Senate elections should be about who has the best ideas, not who can raise the most money. Senate elections should be about who is the best candidate, not who can raise the most money. Senate elections should be about who is the best person—the best person for the job—not about who can raise the most money.

Mr. President, this amendment is very, very important. I say to my colleagues who are undecided on this issue: If you want real reform, this is the reform amendment. I hope and I trust that we will get enough votes to see it become law.

I yield back the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Thank you, Mr. President.

Mr. President, I think the Senator from California for her remarks. She obviously understands how extraordinarily complicated it is to raise some of the largest amounts of money in the Senate. She really broke a lot of new ground in doing so, because she had a really remarkable small donor campaign and that witnessed the smaller amounts of money that she raised.

But, notwithstanding that, she articulated the difficulties that it presents us with. So we are delighted to have her additional support as a new Member of the Senate and particularly pleased that she is one of the original cosponsors of the bill. I thank her for her important support of this bill.

I know the Senator from New Jersey was here waiting to speak. I believe he will return.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I do not think we need to belabor the debate on the Kerry amendment very much. Suffice it to say that in terms of direct expenditures on behalf of candidates who qualify, there is about twice as much taxpayer funding of elections in the Kerry amendment as in the underlying amendment.

We already know how the American public feels about taxpayer funding. We have the most comprehensive survey ever taken on any subject and we have it taken annually. Every April 15, taxpayers get to decide how they feel about taxpayer funding of the one election we have at the Federal level funded in that manner currently. Taxpayers get to decide whether they want to check off $1 of taxes they already owe—it does not add to their tax bill—and divert that away from deficit reduction or childhood vaccinations or any other worthwhile subject, to give to the Presidential election campaign fund. And we know that participation has gone from a high of 28 percent in the late 1970's, constantly going downward, as this chart illustrates, to a low of 17.7 percent.

This is the only subject with which I am familiar where we have a total survey of millions of American every year. So you can flash polls until you are blue in your face, the answer to the question is as apparent as the nose on your face; the American taxpayers hate taxpayer funding of elections.

At a time when the President is calling on us to cough up, or ask of taxpayers, the highest tax increase in

American history, it is suggested we should start a new entitlement program for us with tax dollars. Suffice it to say, the American public will be outraged. Ross Perot is against this bill, and those who follow him are against this bill.

It is interesting, there was recent further evidence, if any were needed, about how the public feels about taxpayer funding of elections. It was an interesting piece in the Washington Post in 1991, January 1991, about a focus group that was brought together to take a look at what the public felt about taxpayer funding of elections. There was a story about it in the Washington Post, with a byline by Chuck Babcock. The article said:

Proponents of spending tax money to reform the much-maligned congressional campaign system will find little to cheer about in a new study of public financing of presidential elections.

When the Federal Election commission sponsored focus groups on the subject at the end of last year, they found the participants so angry—

This was a FEC-sponsored focus group study—

. . . about politicians in general that the anger overwhelmed any discussion of the presidential checkoff issue.

"It was often difficult to keep the group focused on the subject at hand because of their anger at politicians and a perception of wasteful spending by government," the report to the FEC by Market Decisions Corp. of Portland, OR, said.

Some campaign finance reform advocates in Congress have proposed increasing the voluntary checkoff from the $1 designated for the Presidential fund to $3—

which was the number for the bill in that Congress—

for congressional races, too.

The FEC hired the Portland firm because it is facing the possibility that the fund, started as a post-Watergate reform in the mid-seventies, won't have enough money to provide matching funds for candidates in the 1992 Presidential primary season. The idea, FEC spokesman Fred Eiland said, was to determine what the public knew about the system so the agency could fashion a program to publicize the problem.

Market Decisions corporation conducted two sessions in Fort Lee, New Jersey, Chattanooga, Tennnessee, and Portland * * * Ray Ashmun, who ran the focus groups, found that participants had little knowledge of how the system worked or how their money was spent if they designated $1 of their taxes to go to the fund.

The study found some focus group participants particularly outraged to learn tax money goes to subsidize the Presidential nominating conventions: "That money is going to conventions?" Well, I don't want any money going to a drunken brawl, a week-long party," the report quoted one Chattanooga resident as saying.

Ashmun, who conducted the focus groups, said in an interview yesterday that participants who didn't contribute to the Presidential fund were the most emotional in denouncing politicians. He added he is among 80 percent of taxpayers who don't use the checkoff. "And now I feel more strongly about it because I'm more informed."

This was the guy who conducted the focus groups, and he said, after listening to the focus groups, he felt even more strongly against taxpayer funding than before. This was the focus group commissioned by the Federal Election Commission to find out, if people were accurately informed of what the checkoff was about, how they felt about taxpayer funding of elections.

So if any of our colleagues want to delude themselves into thinking that taxpayer funding of elections is popular, please go ahead. I guess you can always trot out a poll for whatever your preconceived notions are. But suffice it to say for any of those who may have an open mind on this subject, I will display the public response to the checkoff every April 15.

Recently published polls that I have seen that asked the question in a very balanced way show at least a 20-point spread against taxpayer funding. There is not a doubt in my mind that the American public absolutely hates, detests, and despises taxpayer funding of elections.

Only yesterday, we had a two-vote margin as Senators voted, just barely, that rather than use the lobbying expense deduction to repeal savings strictly for deficit reduction, a new entitlement program for politicians would get first crack at the money. The remaining dollars would then be used for available deficit reduction. Under the Kerry amendment, there would not be much left for deficit reduction.

I think that there is not any question, and I am sure the Senator from Massachusetts would agree with this, that the purpose of his amendment is to have more—that is the whole basis for it, he argued that, that is his point of view—is to have more tax dollars in the general election, to have it largely funded by the taxpayers of America. That is the goal. He believes that is a cleansing process to hermetically seal the Capitol, to separate us from the influence of those folks out there who may want to contribute their money to the candidate of their choice in voluntary and limited amounts.

So I really do not think there is any particular reason to belabor the issue. I did have a couple of questions to ask my colleague from Massachusetts, and then I am prepared to move to a vote, if he is.

I just ask my colleague from Massachusetts: Under your amendment, if a civil rights group, like the NAACP or B'nai B'rith, decided to make independent expenditures in opposition to the Senate candidacy of David Duke in Louisiana and Mr. Duke had agreed to comply with the limits and other eligibility requirements of the bill, would your amendment provide tax dollars for David Duke to respond to the independent expenditures against him or civil rights groups like the NAACP or B'nai B'rith?

Mr. KERRY. The answer to my colleague is, no, it would not be unless you reached the threshold. If you reached the threshold, the same rules would apply as in President Clinton's and in the Mitchell-Boren bill. All we do is change the funding source, but the same other rules would apply.

Mr. MCCONNELL. So if the threshold had been achieved, David Duke would get tax dollars to counter B'nai B'rith or NAACP's independent expenditures against him?

Mr. KERRY. Only according to the rules set out in the original bill. They would have dollars only as Americans have chosen to put them in.

Under the current bill—that is the one which we are amending—there is a mandatory expenditure. We do not have a mandatory expenditure, and I think that is the important distinction here; that this provision makes the public certification entirely voluntary and the only available money to adjust for those who would go outside of the limits would be according to the voluntariness of Americans.

I would respond by asking the Senator from Kentucky why he is afraid or would resist allowing any citizen to choose whether or not they would want to support the process? If you do not want to do it in Kentucky, you do not have to. But if I want to do it in Massachusetts, why not permit me the right and permit a citizen in Massachusetts the right to fund an election that way?

Mr. MCCONNELL. If the Senator from Massachusetts is asking me if I would like to ask the American people whether they would like for David Duke to get their tax dollars to respond to independent expenditures of the B'nai B'rith or NAACP, I would like to ask the American public that. I think that would be interesting.

Mr. KERRY. That is not what I asked the Senator and that is not what I am asking. What I am asking the Senator from Kentucky is, why will the Senator from Kentucky not allow any citizen in America who wants to make the decision, why does the Senator from Kentucky feel that he knows better than 20 percent of Americans who want to make a choice contributing this way?

Mr. MCCONNELL. Does the Senator's amendment allow the taxpayer to add to the tax bill, the $5?

Mr. KERRY. Yes, it does, but that is a supplemental mechanism only. I believe you would prefer only an add-on, is this correct?

Mr. MCCONNELL. That would be a real contribution.

The PRESIDING OFFICER. The Chair reminds Senators to direct their questions to the Chair.

Mr. KERRY. Mr. President, my question to the Senator, and I will answer his question to me, no, we do not do it

as an add-on. We permit an add-on, but it is supplemental only. It is just like the Presidential but it is offset. There is no addition to the deficit because it is more than paid for by the wealthier taxpayers of America who are deducting their lobbying expenses at the expense of the average citizen who is paying for them to lobby.

What we are saying in this bill is, why should the average, small taxpayer of Kentucky pay money to support big oil interests to come to Washington and lobby against their interests?

So we are saying, we are doing away with that in order to allow those people to make a choice.

But my question, I still ask the Senator from Kentucky, Mr. President, is——

Mr. MCCONNELL. Mr. President, I believe I have the floor.

Mr. KERRY. I think the Senator yielded for a question and asked me one. Why will the Senator not allow a citizen of Kentucky or Massachusetts to make the choice for themselves?

Mr. MCCONNELL. Mr. President, the citizens of Kentucky are making the choice. Only 10 percent of them choose to check off a dollar of taxes they already owe to divert it to the Presidential campaign fund.

We got a little bit off the track here. The fact of the matter is, the Senator from Massachusetts knows, because we have discussed this issue before, whether or not it is contained in his amendment, under the underlying bill, if a civil rights group decided to make an independent expenditure against a Senate candidate, complying Senate candidate like David Duke in Louisiana, in fact, tax dollars would be given to the former Klansman to counter the independent expenditures in opposition to David Duke.

I did have one other hypothetical that I find somewhat confusing. I think this would be the case, not just in Senator KERRY's amendment but also in the underlying amendment, that I thought we might discuss. I understand there is some desire to have a vote at 5 o'clock. I do not want to hold that up because the bottom line with the Kerry amendment is you have twice as many tax dollars being spent on elections as the underlying bill. I think all Senators know if they vote for the Kerry amendment, they are voting to spend even more tax dollars on elections.

There is one other interesting hypothetical that could develop under both the underlying bill and I suspect the Kerry amendment if it were adopted. Let us take a look at this hypothetical.

You have an independent expenditure by a group of people who get together calling themselves Americans for Higher Taxes. They think that is a good idea. They are for it. And this group ran TV ads in the next campaign saying, "Vote for Senator KERRY; he has the courage to vote for higher taxes again and again." Independent group makes an expenditure, let us say, in Massachusetts, in a race in which Senator KERRY is running and they say, "Vote for Senator KERRY; he has the courage to pay for higher taxes again and again."

Now, my question in that hypothetical—I do not know the answer to it. I suspect Senator KERRY does not either, but it will happen repeatedly if this bill passes. Either with or without the Kerry amendment, if this bill passes, this will happen all the time.

In that case, suppose Senator KERRY and his opponent were eligible under the bill. Who would get the independent expenditure response money? Is that an ad for or against the hypothetical Senator in that situation?

The PRESIDING OFFICER. Does the Senator from Massachusetts wish to yield to the Senator from Kentucky to respond to the question?

Mr. KERRY. If I could ask the Senator to repeat the question, I was talking to another Senator——

Mr. MCCONNELL. I am not sure I know the answer to it. I doubt if Senator KERRY does either. It is a hypothetical we are going to see happen repeatedly whether or not his amendment passes. It is one we ought to think about.

Under the underlying bill, let us assume a group got together calling itself Americans for Higher Taxes that really believe we are undertaxed in this country. They go into a Senate race. I picked Massachusetts just as an example. It could be any State. They say vote for Senator KERRY. He has the courage to vote for higher taxes again and again. Independent expenditure in that State. Now, who gets the response money, Senator KERRY, in this hypothetical, or his opponent? In other words, who is being attacked in that ad and how do we make the decision?

Mr. KERRY. I am not sure that I can answer specifically who is being attacked. Let me just make it clear that my amendment does not impact that hypothetical. That hypothetical arises out of the underlying structure of this bill where there are some provisions for independent expenditures. I am happy to address it.

The structure of the underlying bill is such that it seeks to try to address the question of significant amounts of independent expenditures that come in that clearly are calculated to impact the campaign.

I believe there are requirements in the legislation that require the FEC to make a judgment. And the FEC is in this underlying legislation given significantly greater teeth than it has ever had previously because, as we all know, it is a toothless tiger.

Mr. MCCONNELL. I think that is the answer. The FEC would decide who got the money and it would be a tough question, I guess, to decide whether that independent expenditure was in opposition to or in support of the candidate whose name was mentioned.

Mr. GORTON. Mr. President, I wonder——

Mr. MCCONNELL. A very interesting hypothetical.

Mr. GORTON. Mr. President, will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. Yes, I yield to the Senator from Washington.

Mr. GORTON. Mr. President, I have listened to a portion of this debate on the amendment of the Senator from Massachusetts which seems to me to proceed under a set of assumptions this Senator finds curious. He wonders whether or not the Senator from Kentucky agrees with him.

The first of those assumptions resulted from the question why not let the people of Kentucky or the people of Washington or the people of Massachusetts make this determination themselves, whether or not money which they check off on their income tax returns should go into Senate campaigns as well as Presidential campaigns. But is this Senator not correct in that that decision as it is made today with respect to Presidential campaigns and as it would be made under any of the proposals under this bill is not really money which comes out of the pocket of the taxpayer?

Mr. MCCONNELL. The Senator is correct.

Mr. GORTON. It comes out of the general fund of the United States, out of all of the programs for which the Congress has voted. It does not affect the tax status of the person who makes this election whatsoever.

Mr. MCCONNELL. The Senator is absolutely correct. So what is being given to the taxpayer is the authority to divert that dollar away from deficit reduction, childhood immunization or any other worthwhile purpose of Federal Government. It would be truly voluntary, I would say in further response to my friend from Washington, if it added to the tax bill.

Mr. GORTON. That was the next question the Senator from Washington was going to ask. I suspect that the Senator from Kentucky would not object to a program, at least if it were a supplementary program of this sort, if the taxpayer wanted simply to say I want to pay $5 more to the Federal Government which it could distribute.

Mr. MCCONNELL. I would not have objection, provided the taxpayer was given a choice with the additional $5. The taxpayer might want to pay an extra $5 for deficit reduction. He might consider some other worthwhile purpose. But it is interesting to note that in my State at least, only 10 percent of the taxpayers are willing to give a dollar they have already got to pay to the Government for this cause.

Mr. KERRY. Will the Senator yield?

Mr. GORTON. Another element to another question, if the Senator will yield, with respect to an assumption that he heard on the part of the Senator from Massachusetts which this Senator always finds curious and wonders if the Senator from Kentucky does not believe the same thing.

I believe that one of the assumptions here was that at the present time lobbyists, organizations, profitmaking organizations are using taxpayers' money to lobby here in Washington, DC. This Senator has always found it curious that so many people in politics seem to assume that money which is earned by an individual or by a business and which is retained by that individual or business is somehow taxpayers' money which the Government by its good graces allows the taxpayer to keep rather than taxing them at the rate of 100 percent.

Is it the view of the Senator from Kentucky that money earned by an individual really belongs to the Federal Government except for that which the sovereign should somehow allow him to keep?

Mr. MCCONNELL. The Senator from Washington certainly shares the presumption of the Senator from Kentucky that we are allowed in the Government to take that money away from the taxpayer at their sufferance. About the only good thing——

Mr. KERRY. Will the Senator yield.

Mr. MCCONNELL. That could be said about the current checkoff system for the Presidential election is that Americans are telling us what they think. Millions of them every year are telling us how they feel about diverting a dollar of taxes they already owe to the Presidential election campaign fund. So we know how the voters feel about it.

Mr. GORTON. One final question, and I will yield even the ability to ask questions. The proposal which is before us now, which is to be voted on soon, moves to total taxpayer funding of Senate races under very much the same rationale as general elections for the Presidency are now conducted in that fashion.

But is it not the view of the Senator from Kentucky, as it is the view of this Senator, that the first amendment right to communicate political views, to make one's political views known is not going to restrict in any way, in any significant way whatsoever, the ability of citizens of the United States to spend money to cause their views to be known with respect to a political campaign?

And just as the Senator from Kentucky put up his last hypothetical that when an individual is denied the right to contribute anything to a Senate campaign directly, to the Senator from Kentucky, the Senator from Washington, the Senator from Massachusetts, the Constitution simply is not going to be interpreted in such a fashion as to prohibit that individual from going out and spending $1,000 or $10,000, if he wishes to do so, in communicating his own views, quite independently of the candidate's, with respect to the merits of particular candidates for office. So that all we do is to take out of the responsibility of the candidate and place into an amorphous responsibility of whoever wishes to spend money the responsibility for messages which voters are receiving.

In other words, an individual is still going to be able to spend money for a Senate race, is that not correct, and spend it pretty much how they want, except they cannot spend it on their own behalf?

Mr. MCCONNELL. Mr. President, the Senator is quite correct. The first amendment to the Constitution makes it impossible to restrict all kinds of political expression. So what happens—we know this because we have had 15 to 18 years of experience with the Presidential system—if you could envision what would happen when you put a rock on Jell-O, the money simply oozes out to the side in undisclosed and unlimited amounts.

What would happen, with or without the Kerry amendment, is we would not in fact have 90 percent publicly funded elections. There would be money spent in other ways.

Mr. GORTON. Soft money expenditures other than through political parties are not regulated at all by this bill, are they?

Mr. MCCONNELL. The Senator is correct. There is absolutely no provision in either the underlying bill or in the Kerry amendment that would limit or disclose—even disclose—nonparty soft money, the real sewer money in American politics. So it is absolutely certain that there will be an explosion of spending through those uncharted channels—unreported, unlimited, and unknown to the American people—a virtual explosion, as we have seen in the Presidential system, through party soft money and nonparty soft money.

Suffice it to say that spending limits will not work, whether you have 20 percent of the general election funded by the taxpayers, 50 percent of the general election funded by the taxpayers, or 90 percent of the general election funded by the taxpayers. They simply cannot work consistent with the first amendment.

So we know what will happen. We will squander millions of dollars of taxpayers' money. In fact, even though the act of checking off is voluntary, that will divert that tax money away from ways that the 83 percent of the American public that did not check off might have wanted to see that money be spent. In other words, 83 percent of the people who do not check off might want to see that money spent for deficit reduction, but the 17 percent who make the voluntary act of checking off have the power to budget, if you will, to spend, if you will, the money belonging to all of us as a result of taxation.

So what we would do here, I gather, under the Kerry amendment, is raise it to $5. The reason they need to do that is the participation is slowing, sliding down the razorblade of life. So you have to get more money out of fewer and fewer people who have any enthusiasm at all for the notion that tax dollars should be spent on our campaigns.

Mr. GORTON. I thank the Senator.

Mr. MCCONNELL. I thank my friend from Washington.

Mr. KERRY. Mr. President, will the Senator yield?

Mr. MCCONNELL. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. MCCONNELL. It is my understanding that a number of Senators would like to vote around 5 o'clock.

Mr. President, I want to further point out, I am trying to get a sense of when a number of Senators over here would like to vote, if that is possible. It might not be achievable. I had suggested to my friend, Senator KERRY, yesterday, in a discussion of other amendments, that it would be possible.

Mr. KERRY. Will the Senator yield for a point of information?

Mr. MCCONNELL. For a point of information only.

Mr. KERRY. In terms of the capacity vote, there are a number of Senators who want to speak here.

Mr. MCCONNELL. It may be impossible.

Mr. President, I retain the floor.

Let me just say that I said to my friend from Massachusetts yesterday, as we were discussing another amendment, I had thought that when the Kerry amendment on so-called full funding of congressional elections was offered, that it would be constitutional. And it could have been made constitutional just like the Presidential system was if it took all the penalty features out.

The reason Ronald Reagan and George Bush, who were opposed to public funding of elections, agreed to accept the money is because the subsidy is very generous. The way the Congress in the midseventies made the Presidential system constitutional was to make it truly voluntary and very generous. You could make this bill constitutional.

I had hoped that my friend from Massachusetts, in his zeal to have full public funding, would at least cure the constitutional problems but, alas, he has not done that. We still have the punitive provisions in where you get punished if you exceed above the spending limit. We have these tax dollars triggered for independent expenditures to counter those. Resumably, the loss of the broadcast discount is still in there.

I had hoped that Senator KERRY would offer an amendment that was constitutional, because as you provide more and more public money, the presumption is that it becomes more enticing. So you do not need to bludgeon people into accepting it.

As the Senator from South Carolina said this morning, in proposing a constitutional amendment, this underlying bill is blatantly unconstitutional. The Senator from South Carolina said that today. He knows it is coercive. Any plain meaning of the bill and the amendment shows that there is nothing voluntary about it.

So I had hoped that I would be able to say to my friend from Massachusetts: You have done a perfectly straightforward thing. You have said that we want to have full public funding, to get the private dollars out of the campaigns, and we want to make it truly voluntary in order to make it constitutional.

But, alas. the Kerry amendment, unfortunately, is twice as expensive and still unconstitutional.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I just would like to respond very quickly to a couple of comments. First of all, my colleague from Kentucky points to the fact that only 10 percent of the citizens in Kentucky are participating. That is all it takes. If 10 percent of the people of this country participate, this works.

One of the reasons that it has been trailing off—indeed, it has been trailing off—is people hate politicians and politics, and they hate what is happening here. If they thought that there was a valuable reason to contribute to the process, as they did right after Watergate, when there was a sense it was real reform, we are willing to bet that Americans would once again participate.

My question to the Senator from Kentucky remains: Why are he and others afraid to let an American make a choice? If only 10 percent today are making the choice, that is understandable. I am willing to bet that a much higher percentage will make the choice if this is truly explained to them, and if they see they are freeing themselves of the larger interest.

The Senator from Washington says: Why should we take the hard-earned money of these big corporations away from them and make them pay?

The point is, it is not the money they keep; it is the money they get to make because they get a tax deduction, which is a tax expenditure. Every deduction we allow a company to have is money we lose from the Federal revenue. If we give away money to a corporation because it can come to Washington to lobby us, that is money that the taxpayer has to pick up. The citizens of Kentucky are paying more today because the big corporations are getting to deduct their expenses. But the average citizen who comes here does not get to deduct it. The average citizen who picks up the telephone does not get to deduct it.

I simply say to my colleague that what this does, it simply gives the people a choice and evens the playing field.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. BRADLEY].

Mr. BRADLEY. Mr. President, I am tempted to begin with kind of a series of questions that get to the question of the metaphor for a rock in Jell-O. But I am going to refrain from that direction, and instead confine my comments to the bill before us. I am cosponsor of this amendment, and I am very pleased to be a cosponsor of this amendment.

We often talk in this body about, really, the States are where the real experimental things are being done on the great national issues; it is the States that are in the forefront of dealing with some of the thorniest problems that confront our political economy.

Over the last decade, States indeed have become great laboratories of democracy. Local governments have tried to come up with innovative solutions to the problems which the Federal Government has been unable to address in any meaningful way.

For example, the State of Oregon has not waited for national health care reform; they have instituted their own. All of us are watching what happens in Oregon very carefully. We want to learn from their experience and perhaps apply some of those lessons on a national level.

And then true education reform is taking place in the States. States as diverse as Indiana and Texas are acting on many problems that we at the Federal level have been talking about, and they are acting in very innovative ways, with programs aimed at dealing with the basic problem, which is how to assure that all of our children get a good, basic education and that our most talented children are challenged at levels that will give them the greatest opportunity for personal growth. These things are happening in the States. In State after State, on issue after issue, there is great innovation.

So, Mr. President, in my State of New Jersey, I would like to talk about innovation that has been going on there for a long while. It is called "public financing of gubernatorial campaigns." Public financing is available in both the primary and the general election in New Jersey, after candidates have raised the threshold amount that qualifies them to receive the matching funds. Even as the distinguished Senators on the other side of the aisle are making the last stand against public financing, we find that three Republican candidates for Governor in New Jersey are running their campaigns, advertising on radio and television, contacting voters today, with public financing in New Jersey, total public financing in a primary, to be followed by public financing in a general election.

At a time when many of us are looking to States to see what has worked, I believe what this body and what this town needs to do is to look for some real-life examples, such as New Jersey, where public financing has worked exceedingly well. How has it worked in New Jersey? Is there competition? You can be sure that there is competition. The system became law in 1974, and since then, we have had four gubernatorial elections under public financing—two Democratic victories, two Republican victories. Opening up the process? Absolutely. While there is a front runner in the gubernatorial nomination, we have four credible candidates, none of whom lack the funding to conduct a dialog on the issue with the people of New Jersey.

After the June 8 primary, there will be a tight and tough race, no question about that. It is going to be hard fought on the airwaves and on the streets and on the ground in the State of New Jersey, but it will be fought on an even playing field. When it is over, no one will doubt that the people of New Jersey made their decision based upon the character of the candidates, their records of public policy, and their programs for the future. It is an even playing field. Both the Republican and Democratic candidate will have spent the same amount of money, and that money will have come from a single interest with the biggest stake in the outcome of this gubernatorial election, and that interest happens to be the people of New Jersey.

I think that most of us believe that is what campaigns should be like—the unregulated competition of ideas and political philosophies that give voters a choice and a voice in their democracy. But this marketplace of ideas does not exist when the resources are so one-sided that only one candidate's programs are discussed and only one set of ideas are debated. It is not always working that way, that the candidate with the most money is going to win, but it works that way the overwhelming majority of the time. There is no question about that.

Well, the Supreme Court has said that in this age of mass communications, money is necessary for political communication. The Supreme Court does not like spending limits on campaigns because these limits inherently restrict the ability of candidates to communicate. In fact, the Supreme Court also sees contributions to candidates as a form of speech. They call

it symbolic speech under Buckley versus Valeo. I am not a lawyer, and there are a lot of good lawyers here; the distinguished Senator from Kentucky is one. There are lawyers on both sides of the aisle. Therefore, I am not involved in debating the points of the Supreme Court decisions. But to those of us who are not lawyers—and there are a few of us in this body who are not lawyers—the crux of the problem in our current system seems to be that money buys more freedom and more speech. There is no question about that. The more money you have, the more opportunity you have to get your point of view over to your constituents—on the airwaves, in the mall, in direct voter contact.

Over the past several years, as we have debated the issue of public financing and the issue of campaign finance reform, I have learned that there are more kinds of money involved in campaigns than I would ever have dreamed possible or likely. For example, let us just think about it. Just go down the list of the various kinds of money we have. There is hard money and there is soft money. There are coordinated expenditures and the Federal match. There is bundled money and earmarked money. There is PAC money and individual contributions, and on and on and on.

We already have a system that is complicated and almost incomprehensible to those who do not work full time on campaigns for a living. Thank heavens that is not most of the American people. It is a special class that everybody hires to make sure everything is done properly; it is a special class. No wonder people feel shut out of this system.

The problem with campaign reform as embodied in this bill, and in other bills, absent the amendment we are now considering, is that it stops short of full public financing. The only clean, guaranteed, disinterested money that you will ever find in a campaign, in my view, is public money. Why is that so? Why do I think it is only going to be solved when we have public money that the taxpayers check off, and you get only what they give you? I think it is because we cannot draw distinctions between private moneys in a way that will ever be truly meaningful.

When it is all private money, it is hard to say that some sources are good, and some sources are bad. Individual contributions can come from college roommates, from someone who liked a speech they saw on C–SPAN, from a friend of a friend, from somebody who likes the way you look—it does not come to me too often that way, but it goes to some—from someone who thinks the contribution will gain access, or whatever. It can be perverse, or it can be naive. It can be idealistic, or it can be coldly calculated.

We cannot legislate what is in peoples' hearts out there when they contribute to candidates. That is why there has to be the threshold that says it has to be public financing, because then we do not have to look in people's hearts or attribute motives to people or subject all of us to innuendos because of personal contributions that we know came for one reason, but outside it is subjected to innuendo and it is implied that it came for a different reason.

I do not believe that working our way through the maze of political money and contribution limits would truly reform the political process. Those who want to game the new system will find ways to game the new system, just as with the current system. We would find ourselves back here sooner or later wondering why anti-incumbent sentiment is so hot out there in the country and asking ourselves how can we restore public confidence.

This amendment happens to be the way we restore public confidence. Short of it, we will not. With all due respect to all those who have been a part of this particular bill and who put it together over long hours, this is not the final word. It is not even the best word.

It is not even the best word. It is a step forward. But if we do not go to public finance we are going to be back here in 5 years, 8 years, 10 years when other people have figured a way to game the system, and we are going to be asked the same kind of questions.

The bill that we have introduced I think simplifies the political system and opens up the doors to everybody by funding campaigns equally for challengers and incumbents with what I have said, with the only clean money that exists. That is public financing. At a time when we are looking at the difference between spending and investing, this is clearly an investment not in roads or bridges but in something far more fragile and infinitely more precious, and that is democracy and our future.

I think what we have accomplished with public funding is ensuring that everyone has a voice and feels that they have been heard, everyone participates and everyone benefits when they are engaged in a dialog, it offers voters a real choice, and no one feels shut out of this process.

I have been struck during this debate, when the other side discusses public financing for Senate races they keep talking about "making the American people pay for our political campaigns." I am struck by the presumption of ownership in that particular statement "make the American people pay for our political campaigns"—ours.

Well, I do not think that campaigns for the U.S. Senate are our campaigns any more than these are our seats, our seats in the U.S. Senate. This is not my seat in the U.S. Senate. This Senate seat is a seat representing the people of New Jersey, and I happen to be here for awhile. I am a temporary occupant. I am working on behalf of the real owners, the people of New Jersey. And every 6 years they have an opportunity to decide whether to fire me or rehire me for another term. I get an opportunity to make my case to them. They get an opportunity to say yes or no. When I make my case to them it is not my campaign, it is a campaign that belongs to the voters as surely as this Senate seat belongs to the voters and the people. It is their process to make their decision.

Mr. President, this amendment will go a long way to assuring that it remains, and in a real sense, their process. So I say let us give campaigns back to the people of this country. Let us make sure that everybody feels their voice is heard, and let us make the national interest the loudest voice we hear in our campaigns by passing this amendment. Then we will try to explore in depth the meaning of the rock on the Jell-O.

The PRESIDING OFFICER. (Mr. MATHEWS). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from New Jersey not just for his support but much more importantly for the quality of his statement.

I think the Senator from New Jersey is one of those few people in the Senate who, by virtue of a combination of hard work and stature and reputation, has the ability to raise more money than anyone else in the Senate.

I think it is fair to say that if you have a Senator who has the easy ability to raise that kind of money and yet comes to the Senate and says "Look I can always out-distance my challengers, but I do not think it is right," I think that is a very significant statement and it underscores the importance of this particular effort.

I thank the Senator from New Jersey for that.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BOREN. Mr. President, will the Senator yield a moment for a unanimous-consent request.

Mr. DODD. Yes.

Mr. BOREN. Mr. President, I would like to ask my colleague—and we do not need to put time under control or divide it between sides, or anything else—would there be any objection to us, so colleagues can plan, setting a time, say at 6 o'clock on or in relation to the Kerry amendment?

Mr. KERRY. I think it is important to have some sort of understanding on time so that folks who want to speak have an opportunity to speak. If we just have an open-ended effort, one person can obviously talk the whole time and we would not be able to get people a fair opportunity to speak.

Mr. BOREN. Mr. President, I ask unanimous consent that the vote on or

in relation to the Kerry amendment occur at the hour of 6 o'clock; that of the time remaining between now and 6 o'clock, 45 minutes, be under the control of the Senator from Massachusetts and 10 minutes under the control of the Senator from Kentucky.

Mr. WIDEN. Mr. President, reserving the right to object, and I will object, I think it can all be done by 6 o'clock. I would ask that we not have a unanimous-consent agreement. I can assure the Senator that I will speak no more than 15 minutes, but I do not want to be in the position that I might not have the opportunity to do that.

Mr. KERRY. Mr. President, I think it is fair to say—I know the Senator from Connecticut only wants 5 minutes. I think the Senator from Minnesota does not have very long. I do not have very long. Why do we not say do it as close to 6 as possible?

Mr. BOREN. Are there any others wishing to come over and speak?

Mr. KERRY. Yes. Senator GLENN was here and left. I think he may want to return. I have confidence we can do it within the vicinity of 6 o'clock.

Mr. BOREN. All right.

I withdraw the request.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me commend the Senator from Massachusetts and cosponsors of this amendment.

This may not be perfect at all, but I do not know of a way in which we are going to be able to advance the process of campaign finance reform. The distinguished Senator from Oklahoma is on the floor and he has engaged in a herculean effort over the years, along with the majority leader and others, to put together a campaign finance reform proposal.

My personal hope is, of course, that the proposal of the Senator from South Carolina may one day prevail and we can cut through a lot of this to provide some limitations on campaign expenditures overall. But in the meantime, the only way we are going to be able to inject some degree of sanity in some of this is through the process the Senator from Massachusetts, Senator KERRY, is offering us. I commend him and other cosponsors for their efforts in this regard and lend my support to it.

Mr. President, I ask unanimous consent if I may proceed as if in morning business to discuss another subject.

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

Mr. DODD. Mr. President, I will be brief. I apologize for interrupting this particular debate, but before we adjourn later this evening and tomorrow or several days I wanted to once again raise an issue that I know is extremely important to virtually all of my colleagues. I raised it in the past and will continue to do so.

LOST YOUTH

Mr. DODD. Mr. President, I rise today to again draw my colleagues' attention to the face of America's youth. Specifically today, I want to talk about the waste of individual lives, about those who grow up in the war zones of U.S. cities, without hope, often without love, and with despair a constant companion.

NEW YORK TIMES SERIES

Last month the New York Times ran a series of 10 articles, called children of the shadows, about these youth. I want to first commend the Times for this important series, and I recommend it to my colleagues.

Mr. President, I ask unanimous consent that the April 13 article in the Times series—titled "Fernando, 16, Finds a Sanctuary in Crime"—be printed in the RECORD in its entirety at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DODD. Mr. President, Fernando's story, as chronicled by the New York Times, is a heartbreaking tale of lost youth. It is the story of hopelessness, of despair. Fernando is from Bridgeport, in my own State of Connecticut. Many think of Connecticut, the State I represents, as a wealthy State. Indeed, we have the highest per capita income of the entire Nation. Yet my State also has some of the poorest cities in the Nation, and with that poverty comes degrading, inhuman conditions for children.

Connecticut is perhaps a quintessential example of the gap that has developed in this country between rich and poor—a gulf that has so divided social classes that social mobility is an impossible dream for many young people.

BRIDGEPORT STATISTICS

"Poverty is the worst form of violence," said Gandhi, and in Bridgeport we see the ravages of this truth. Statistics tell the Bridgeport story, although they do not put a face on it: One in three Bridgeport children live in poverty; 83 percent of public school students are economically disadvantaged; 42 percent of the sheltered homeless in the city of Bridgeport are children.

And it goes on: Nearly one in five Bridgeport births is to a teenager—more than twice the rate for the State as a whole; nearly one in five women giving birth in Bridgeport hospital in 1991, had some level of drugs in her system. One in five Bridgeport victims of homicide is 19 or younger.

Bridgeport is in Fairfield County. Many associate Fairfield County with the communities of Greenwich and Westport and Darien, CT, affluent suburban communities.

Bridgeport, CT, is very much a part of that county and yet the tale of people who were raised in that community is vastly different from the children and families who live in the suburban neighborhoods.

This child, Fernando, the face behind these statistics, was abandoned by his mother when he was just a few months old. Relatives say his mother got tired of being beaten by Fernando's father. Fernando lived with his grandmother until the age of 8 in one of Bridgeport's public housing projects.

Mr. President, I recently toured one of those Bridgeport housing projects, and I cannot begin to describe to you, or my colleagues, the desolution I witnessed in this city in my State.

Walking with the chief of police and other officials, the deals were going down right ahead of us, and right behind us, as we cut a swath of temporary law and order down a street where, police tell me, 15 percent of the murders in the State take place. Garbage was piled everywhere, buildings were boarded up or burned out.

The local elementary school—the Munoz Marin School—has to bus children who live within one-and-a-half blocks of that school because of the danger to their lives. One-and-a-half blocks they have to bus children because of the danger to these young people.

I met with teenagers from that neighborhood—honor students who attend a magnet school in that area—who fall asleep at night to the sound of Uzis and AK-47's. These teens are angry; they are frustrated. They feel the system in many ways, has let them down, and Mr. President, regrettably, I think they are probably right.

One of these honor students, Liany Arroyo, is the same age as Fernando. Liany worries she will not survive to go to college. But the honor student Liany has something drug-dealing Fernando did not get—the concern of consistent, caring adults. Liany has lived her life with a loving mother and grandmother who worry and care about her and have all of her life.

Fernando's grandmother died unfortunately, when he was 8, leaving him to be passed from relative to relative and friend, sometimes living with a father who drank, used drugs, beat and terrorized him, according to relatives. For 5 years of Fernando's young life, his father was in jail. Fernando used to call himself a hand-me-down Raggedy Ann Doll; he used to say, "I'm going to end up like my father."

Asked now where he will be in 5 years, and I will quote him for you from this story, Mr. President, this 16-year-old says, "I will either be dead or in jail."

Shocking though his resignation may be, should it really surprise us? We as a society allow our children to be kicked around, treated like hand-me-downs, exposed to poverty, violence, and drugs—both at home and in the streets—and then we ask why? Why

does he, or she, join a gang, why does he, or she, sell drugs, why has he, or she, no ambition for the future? Why are they not trying in school?

Experts have been telling us why for years. Those who study children exposed to chronic danger—war, inner city violence, domestic violence—have been telling us these children develop poor concentration, they daydream, they start having trouble in school at the earliest days. Without intervention and support, they are likely to drop out and end up just as Fernando has predicted—dead or in jail.

The experts say that living in harm's way leads to diminished expectations for the future, so these kids have no stake in what happens to them or to anyone else. Using drugs numbs the pain of living in these circumstances; selling them becomes a short-term solution to poverty and despair. These kids, after all, want what most kids in America want—the latest sneakers advertised on television, the acceptance of their peers.

Gangs become a substitute for family—regretably, sadly—and one can hardly find a more eloquent statement of why a kid like Fernando would join a gang than the Times' quote from Bernardo, a 17-year-old from Manhattan:

> You find togetherness and family and support from a gang * * * your mother * * * ain't giving you that hug and that love. Every human being needs love.

I tell you Fernando's story today to illustrate the complexity of the problems surrounding drugs and violence. Is it any wonder the so-called war on drugs in many ways has failed? We have spent a decade pouring money into this failed effort to limit the supply, and unfortunately have done too little to halt the demand that occurs in our cities and streets.

As we prepare to vote for confirmation of Dr. Lee Brown, one of the Nation's most distinguished law enforcement officials, I am hopeful that, as drug czar, he will bring a new, enlightened perspective to drug control.

I noted, Mr. President, the presence on the floor of the distinguished Senator from Delaware, the chairman of the Judiciary Committee, and his deep commitment to these issues. I hope with his help and that of Dr. Lee Brown we may be able to begin to make changes in this area.

I believe he will be able to work with others in the administration and in Congress who, like Dr. Brown, see the broader picture, who recognize the connection between our appalling lack of prevention and treatment and the staggering toll it has extracted: Not only substance abuse, but mental illness, illiteracy, decreased productivity, juvenile delinquency, criminal incarceration—and a homicide rate that far exceeds that of 21 other industrialized countries.

Although we have passed legislation to treat substance-abusing mothers, to prevent child abuse, to improve Head Start, still these efforts have failed to receive funding adequate to do the job. This malignant neglect of children and families has infested our Nation, and it continues to grow and spread maliciously throughout the country.

We have only begun to see the manifestations of this cancerous growth, but the devastation that is already visible should be a wake-up call to all of us.

The story of this young child, Fernando, and many more like him in this 13-part series the New York Times has given us should make it clear, it is not just data, not just statistics. These are stories about individual people, young children on our city's streets, even in the affluent State that I represent, these problems occur as I speak.

So I am hopeful that we will begin to take note and to engage in the most constructive ways of trying to see it. We cannot turn these statistics and these numbers and point them in a different direction.

If we fail to do that, if we do not take some steps to somehow curb the growth of these problems, if we continue to watch these statistics mount and grow, then I fear that the very democracy that we cherish and enjoy is in jeopardy, Mr. President.

So I share these stories with my colleagues and in the hope that they might, or their staffers might, look and read some of these articles if they missed them so these do not just become statistics, but become faces, so the people will take note and together we might try and find some common solutions so that in the next generation the Fernandos and Bernardos that I talked about here today might enjoy the opportunities of that young Miss Arroyo that I talked about, the honor student with loving and caring parents, and with a future that offers hope, not death or jail as the option.

Mr. President, I yield the floor.

EXHIBIT 1

[From the New York Times, Apr. 13, 1993]

FERNANDO, 16, FINDS A SANCTUARY IN CRIME

(By John Tierney)

BRIDGEPORT, CT.—Fernando Morales was glad to discuss his life as a 16-year-old drug dealer, but he had one stipulation owing to his status as a fugitive. He explained that he had recently escaped from Long Lane School in Middletown, Conn., a state correctional institution that became his home after a police officer caught him with $1,100 worth of the heroin known as P.

"The Five-O caught me right here with the bundles of P," he said, using street slang for the police as he stood in front of a boarded-up house in Bridgeport's East Side. "They sentenced me to 18 months, but I jetted after four. Three of us got out a bathroom window. We ran through the woods and stole a car. Then we got back here and the Five-O's came to my apartment, and I had to jump out the side window on the second floor."

WHAT FUTURE?

Fernando took off in December, and had been on the run for weeks. He still went to the weekly meetings of his gang, but he was afraid to go back to his apartment, afraid even to go to a friend's place to pick up the three guns he had stashed away. "I would love to get my baby Uzi, but it's too hot now."

He knew the police were still looking for him, which was why he made a special request before agreeing to be interviewed.

"Could you bring a photographer here?" he asked. "I want my picture in the newspaper. I'd love to have me holding a bundle right there on the front page so the cops can see it. They're going to bug out."

The other dealers on the corner looked on with a certain admiration. They realized that a publicity campaign might not be the smartest long-term career move for a fugitive drug dealer—"Man, you be the one bugging out," another dealer told him—but they also recognized the logic in Fernando's attitude. He was living his life according to a common assumption on these streets: There is no future.

When you ask the Hispanic teenagers selling drugs here what they expect to be doing in five years, you tend to get a lot of bored shrugs. Occasionally they'll talk about being back in school or being a retired drug dealer in a Porsche. But the most common answer is the one that Fernando gave without hesitation or emotion: "Dead or in jail."

The story of how Fernando got that way is a particularly sad one, but the basic elements are fairly typical in the lives of drug dealers and gang members in any urban ghetto. He has grown up amid tenements, housing projects, torched buildings and abandoned factories. His role models have been adults who used "the city" and "the state" primarily as terms for the different types of welfare checks. His neighborhood is a place where 13-year-olds know by heart the visiting hours at local prisons.

It is also a place where drugs and gangs are always around and parents are often missing. When Fernando and his relatives try to explain what went wrong in his life, they see a cycle over two generations. It began with a father addicted to drugs and alcohol, chronically jobless, prone to battering and abandoning his family. By the time death came, the son was on the street selling the bundles that destroyed the father.

THE FAMILY: A MOTHER LEAVES, A FATHER DRINKS

Fernando Morales was born in Bridgeport on Sept. 16, 1976, and his mother moved out a few months later. Since then he has occasionally run into her on the street. Neither he nor his relatives can say exactly why she left—or why she didn't take Fernando and her other son with her—but the general assumption is that she was tired of being hit by their father.

The father, Bernabe Morales, who was 24 years old and had emigrated from Puerto Rico as a teenager, moved the two boys in with his mother at the P.T. Barnum public housing project. Fernando lived there until the age of 8, when his grandmother died.

"She was the only one who was really there for him, and it was terrible for him when she died," said Camilia Mendez, an older cousin who lived there as well. "At the funeral he was going crazy thinking about one night his uncle came in drunk and started hitting her. Nando tried to stop it. He picked up a pool stick and swung it at his uncle, but it hit her by mistake. At the funeral he kept screaming out her name and

saying, 'I'm sorry, I didn't mean to hit you.'"

"VERY BAD LIFE"

After that Fernando and his brother Bernard lived sometimes with their father and his current girlfriend, sometimes with relatives in Bridgeport or Puerto Rico. They eventually settled with their father's cousin, Monserrate Bruno, who already had 10 children living in her two-bedroom apartment.

"Nando's had a very bad life—different parents all the time" said Mrs. Bruno, who is now his legal guardian. "Living with his father was bad for him. The father would get drunk and beat him up. One time Nando came over here crying at 3 in the morning and said his father wanted to cut his penis off with a scissors."

Fernando was reluctant to talk about his father or the traumas of his youth. He said he had fond memories of his grandmother and of his two years in Puerto Rico—"They don't sell there on the streets"—but not much else.

"I used to always bug out," he said. "They had to lock me in my room all the time. One time in school the principal made me bend over and whacked me, so I got mad and picked up a chair and hit him in the head. My father's sister took me in for a little while, but she didn't like me because I used to beat up her kids and make trouble. I used to burn things—if I see a rug, I get some matches."

His relatives say they tried but failed to give him the parental guidance that was missing. He seemed lost and would sometimes refer to himself as a hand-me-down Raggedy Ann doll. When the mood struck he would go to video arcades instead of school. He often dismissed his relatives' warnings or help by saying, "I'm going to end up like my father."

His father, by all accounts, was a charming, generous man when sober but something else altogether when drinking or doing drugs. He was arrested more than two dozen times, usually for fighting or for drugs, and spent five years in jail while Fernando was growing up. He lived on welfare, odd jobs, and money from selling drugs, a trade that was taken up by both his sons.

At times he tried to be conscientious. Fernando's second-grade teacher, Richard Patton, recalls that Fernando's father was one of the few parents who picked up his child every day after school. But then he started showing up drunk for parent-teacher conferences, and before long he was off to jail.

Fernando's brother Bernard, a year older, also traced their problems to their father. "They be saying you can live anywhere and it don't affect you—that's stupid. It would have made a difference if we would have had somebody taking care of us. My father would always say, 'Stay in school, don't drop out, don't drink or do drugs.' But he never did anything about it himself, so what's the use? It's funny how you can learn to memorize those words."

THE INDUSTRY: MOVING UP IN THE DRUG TRADE

Fernando's school days ended two years ago, when he dropped out of ninth grade. "School was corny," he explained, "I was smart, I learned quick but I got bored. I was just learning things when I could be out making money."

Fernando might have found other opportunities—he had relatives working in fast-food restaurants and car repair shops, and one cousin tried to interest him in a job distributing bread that might pay $700 a week—but nothing with such quick rewards as the drug business flourishing on the East Side.

He had friends and relatives in the business, and he started as one of the runners on the street corner making sales or directing buyers to another runner holding the marijuana, cocaine, crack, or heroin. The runners on each block buy their drugs—paying, for instance, $200, for 50 bags of crack that sell for $250—from the block's lieutenant, who supervises them and takes the money to the absentee dealer called the owner of the block.

By this winter Fernando had moved up slightly on the corporate ladder. "I'm not the block lieutenant yet, but I have some runners selling for me," he explained as he sat in a bar near the block. Another teenager came in with money for him, which he proudly added to a thick wad in his pocket. "You see? I make money while they work for me."

Fernando still worked the block himself, too, standing on the corner watching for cars slowing down, shouting out "You want P?" or responding to veteran customers for crack who asked. "Got any slab, man?" Fernando said he usually made between $100 and $300 a day, and that the money usually went as quickly as it came.

He had recently bought a car for $500 and wrecked it making a fast turn into a telephone pole. He spent money on gold chains with crucifixes, rings, Nike sneakers, Timberland boots, an assortment of Russell hooded sweatshirts called hoodies, gang dues, trips to New York City, and his 23-year-old girlfriend.

His dream was to get out of Bridgeport. "I'd be living fat somewhere. I'd go to somewhere hot, Florida or Puerto Rico or somewhere, buy me a house, get six blazing girls with dope bodies." In the meantime, he tried not to think about what his product was doing to his customers.

"Sometimes it bothers me. But me I'm a hustler. I got to look out for myself. I got to be making money. Forget them. If you put that in your head, you're going to be caught out. You going to be a sucker. You going to be like them." He said he had used marijuana, cocaine and angel dust himself, but make a point of never using crack or heroin, the drugs that plagued the last years of his father's life.

At the end, at age 40 the father was living in a rooming house with Donna Strawn, a middle-aged woman who described herself as his fiancée and as a person with her own history of drugs and prison. Ms. Strawn, who had left behind four children in California, said that she had tried to get Fernando's father to intervene as they saw Fernando drop out of school and sell drugs.

"But he'd just throw up his hands and say he didn't know what to do," she said. "Or he might get upset and go take a drink. He felt really guilty because he wasn't the father he should be."

On his final night, last May 23, Fernando's father and Miss Strawn got into an argument about a stereo speaker of hers that he had sold. " He was out of it," she recalled. "His eyes were rotating in his head. He was ramming me in the face with his head. I told him, 'I have no family here and I'm going to let you kill me? I don't think so.' I got a knife and tried to stab him but I stabbed the bed."

The police broke up the fight and arrested Fernando's father, who was taken to police headquarters and charged with third-degree assault and refusing to be fingerprinted. That night be hanged himself in his cell, according to the police and the Medical Examiner. An autopsy found evidence of acute cocaine and ethanol intoxication.

THE GANGS: LIKE A FAMILY OR DRUG DEALERS?

"I cried a little, that's it," was all that Fernando would say about his father's death. But he did allow that it had something to do with his subsequent decision to join a Hispanic gang named Neta. He went with friends to a meeting, answered questions during an initiation ceremony, and began wearing its colors, a necklace of red, white and blue beads.

"It's like family, and you need that if you've lost your own family," he said. "At the meetings we talk about having heart, trust, and all that. We don't disrespect nobody. If we need money, we get it. If I need anything, they're right there to help me."

Neta is allied with Bridgeport's most notorious gang, the Latin Kings, and both claim to be peaceful Hispanic cultural organizations opposed to drug use. But they are financed at least indirectly by the drug trade, because many members like Fernando work independently in drug operations, and the drug dealers' disputes can turn into gang wars.

MANY WAYS TO DISRESPECT

Gang meetings are often devoted to adjudication or avenging acts of disrespect, which is such a central concept on the streets that the language has evolved with a host of synonyms: you can dis someone, play someone, rank someone, try someone, or, when it starts to get violent, beef someone. This can eventually lead to killing someone, which occurred 17 times last year in the 12 blocks of the East Side.

Fernando and the other teen-agers on the street professed to be inured to the violence. They were used to seeing teen-agers in wheelchairs at local night clubs. They casually chatted about gang "missions"—which can range from "beat-downs" of errant members to drive-by shootings—and the proper way to coat a bullet with Teflon so that it would penetrate a bulletproof vest. Fernando lamented that he couldn't yet afford a rocket launcher.

"I like guns, I like stealing cars. I like selling drugs, and I like money," he said. "I got to go to the block. That's where I get my spirit at. When I die, my spirit's going to be at the block, still making money. Booming."

It was hard to tell whether he really believed what he was saying about his life and death. Fernando sounded callous and fatalistic most of the time, but occasionally another side came out. One evening, as he and a friend who was high on angel dust sat in a restaurant laughing about a police car they had stolen, two police officers, appeared at the entrance. The two teen-agers turned quiet and stared uneasily at their plates until the officers left.

Then a waitress, Valerie Mendez, who was married to an older cousin of Fernando's and had known him since childhood, came over to the table. She looked in disgust at him and his gold chain and black stocking cap.

"Are you happy now?" she asked. "That's how its going to be the rest of your life. You did it your way because it was easy, and now you're never going to have a life. You'll always be looking over your shoulder. You were smart enough to know better. Why are you going around like a titere?"

He knew that titere meant hoodlum, and he did not have an answer for her. For a moment he looked like nothing more than an embarrassed, baby-faced 16-year-old. After she went away, he said softly, "No, I don't always want to be a bum. I want to be an actor. That's all I wanted to be since I was young. I always loved cameras and performing in front of people. I like to go on TV.

Man, I be straight, I be so happy, I leave everything on the street."

For a moment, at least, he could imagine a future. But he was not ready to do anything about it.

"I'm chilling now," he said in late January. After the interview he lost touch with this reporter, and the two have not talked since. "I'll be selling till I get my act together," he said. "I'm just a little kid. Nothing runs through my head. All I think about is doing crazy things. But when I be big, I know I need education. If I get caught and do a couple of years, I'll come out and go back to school. But I don't have that in my head yet. I'll have my little fun while I'm out."

OTHER VOICES: YOU DO WHAT YOU HAVE TO DO

The following text was taken from more than 20 hours of discussions with teen-agers from the New York City region. Excerpts appear with each article.

Q. Is there strength in numbers? Do you feel compelled to form a group to survive?

Bernardo Vasquez, 17, Manhattan (A. Philip Randolph High School): If you want to understand gangs look at rap music.. . . There's a group called the Geto Boys. And one of the guys, Scarface, has a song where he's a little kid. And he explains how that little kid found family and togetherness.. . . How you find togetherness and family and support from a gang. You know, like your mother's probably whoring around or something like that. She ain't giving you that hug and that love. Every human being needs love.. . . So if you get it from your brothers and you form a gang.

Zaire Graham, 17, Bronx (High School of Fashion Industries): I definitely think there's strength in numbers, whether it's negative or positive.

Barbara Fuentes, 16, Hartford (Hartford Public High School): The Latin Kings and Los Solidos, and Las Solidas, and the Latin Queens, they think they're a family . . . but they hurt people.. . . If you're going to hang with somebody you should hang with them for positive reasons.

Q. But why do kids do that?

Wubnesh Hylton, 19, Brooklyn (Hunter College): Everybody has a crew though. Everybody has a crew they swing with.. . . It's just natural.

Q. There are people who say that the drug dealers in our communities are looked up to.

Zaire. They could say they looked up to the materialistic part, or in the power and respect part. They don't see that his life is in danger.

Q. But at the same time, teen-agers look down on people who work at McDonald's. Why?

Wubnesh. Because it's just cheesy, man. It's just like at the bottom. Flipping greasy burgers. You got to wear those clothes. It's just like the worst.. . . So you do what you have to do to get by. And if that means scamming, that's what you do.

Q. How much are you touched by drugs? How much of a presence do drugs really have?

Zaire. I think right now among teen-agers weed is the biggest thing.

Q. Mostly marijuana?

Wubnesh. It's like drinking a soda, you know. Or smoking a cigarette.

Zaire. You ask people 'why do you smoke weed?' Nobody knows.. . . It's like, 'I don't know. I just do it.'

Q. Does it matter that it's against the law?

Juan Rivera, 18, Brooklyn (Bushwick High School): Around my way when people smoke weed they just walk down the street, they walk right by the precinct with it.. . . And the cops, they don't do anything about it either, you know.

Wubnesh. Everybody sells it.. . . You can grow it on your window sill, you know.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me thank Senator DODD from Connecticut for his statement. It was powerful and it was eloquent.

Let me just point out to the Senator, before he leaves, that these children, these families, these communities, I do not imagine that they would be considered, in the language of high finance and politics today, the heavy hitters or the big players. My guess is that you are talking about people without the financial wherewithal to make the huge contributions.

And I will make a direct tie or a direct linkage to the discussion we are now having on public financing. There are a whole lot of people that are left out of this loop. There are a whole lot of people that do not make these big contributions. And there are a whole lot of people, therefore, who are not well represented in the Nation's Capital, and do not feel represented, and unfortunately I think it is very well the majority of people in this country.

We keep talking about, or some on the floor keep talking, about the cost of public financing of a checkoff, a moderate amount of money. They do not talk about the other costs. They do not talk about the interest in money. They do not talk about the cost that Senator DODD just identified of the people in our country, women and children, disproportionate among these people who are not well represented because they do not have the bucks and they do not get well represented in this game of money and politics.

They do not talk about the costs. They do not talk about the costs of people who are disillusioned with this process because they feel like it is nothing but big money and they cannot "play the game."

They do not talk about the cost of all of the people, many of whom Senator DODD was also speaking about, who cannot even grow up in our country even dreaming to run for President of the United States, because their perception—and it is not just a perception—is that in the absence of some commitment to public financing, either, A, you are wealthy and, therefore, you can run on your own money; or, B, you have to be tied in one more time to the people who are "connected," and they are not connected.

Mr. President, we pay a terrible price. Right now it is Government to the highest bidder; it is democracy on the auction block. And now that I have heard Senator DODD speak, I would like to say we have the functional equivalent right now of a poll tax. We really do. Because for those people who cannot make these big contributions, in many, many ways they are disenfranchised, they are faceless, they are voiceless, they are without the lobby, they are without the political clout.

I want to make a connection, if I could, with just one chart. I am very interested in health care, just as Senator DODD for years has been the leader when it comes to caring about children, families, and stopping the violence.

I am new to the Senate. But a big issue to me is something I made a commitment to the people in Minnesota about. It was to try to make a change in health care policy. "U.S. News & World Report, 1990–1992, The Health Care Industry, Broadly Defined, $41.4 million." That figure is worth repeating, $41.4 million. That is soft money, that is PAC money, that is individual money, that is party money. But people know what it is—it is big money.

Is it any wonder at the very time the President and Members of the Senate and the House are trying to push through health care reform for people in the country so they can say to themselves, "Now there will be coverage for ourselves and our children, now we will have some security," so they can say to themselves, "We have a decent package of benefits"—at the very time we try to push through that reform, you have all these frameworks of self-interest and power opposing it?

The tempo of the giving of money is rapidly increasing—$41.4 million by this industry in the last 2 years. And Senators believe that people in this country do not know that they are left out of the loop; that they do not understand this connection between money and politics; between who has access to decisionmaking here, who can block, who can veto, who can do all that?

They know the power of the insurance industry. They know the power of the pharmaceutical industry. And they know the power of a lot of individual people who can make these huge contributions.

I do not see any way we can have a level playing field, a diversity of candidates, an opportunity for challengers to beat incumbents, and any way we can get disinterested money into the political process and interested money out of the political process without moving in this direction.

I think Senator KERRY's amendment is vitally important. I think it is critically important for this country. Quite frankly, you can cut the issue any way you want to—I have heard my col-

leagues over and over again talk about food stamps for politicians.

As Senator BRADLEY put it, it is not our elections. These are not our seats. This is not our Senate.

When do the elections, and when does this Capitol, and when does this political process belong to people? We are at the point right now in this country where this obscene money chase has undercut the very essence of representative democracy.

I think Senator KERRY'S amendment is a huge step toward restoring democracy to this country.

This debate is a test case over whether or not we are going to have a system of democracy for the many, or democracy for the few. I hope we will support Senator KERRY's amendment. I am proud to be a cosponsor of this amendment because I think that is a vote for democracy for the many.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I must tell my friend and colleague from Massachusetts that I have enjoyed this debate. I have been watching part of it on TV. I further want to thank my friend and colleague from Minnesota, Senator WELLSTONE, for his comments. I just could not disagree more.

When we hear all this discussion about how corrupt the system is and when I think of the results, if the amendment of my colleague would be accepted, of having the taxpayers fully fund campaigns, I almost find it to be absurd.

I think the comments that were made by my colleague——

Mr. KERRY. Will the Senator yield for just a minute? I think it is important just to begin with the accurate premise. It is not fully funding campaigns. It is only the general election, and it is only 90 percent of the general election, because there is a threshold limit, and it is only voluntary.

Mr. NICKLES. Mr. President——

Mr. MCCONNELL. Will the Senator yield just on the voluntary issue before he begins?

Mr. NICKLES. I am happy to yield.

Mr. MCCONNELL. The only thing voluntary about this, I would say to my friend from Oklahoma, is it gives the person who checks off the opportunity to take that dollar away from everybody else. It does not add a dollar to the tax bill. That would be voluntary, if you are willing to add a dollar, or under the Kerry amendment, willing to add $5 to your tax bill. That is a real act of voluntariness. All the Kerry bill does, like the Presidential system and underlying amendments, is to take a dollar away from all the rest of us——

Mr. NICKLES. Of your tax liability.

Mr. MCCONNELL. From all the rest of us who might want to see it spent on deficit reduction or anything else.

Mr. NICKLES. I thank my colleague for his leadership and also for his sense of humor, because this amendment is one of the more humorous amendments we have had offered in the Senate.

To say it is not 100 percent public financing, it is only 90 percent public financing, I find as humorous as well.

I cannot help but look at some of the States. Look at Alabama, the first State on the list, the general election limit is $1.34 million—$1,342,000. In the State of Alabama you can raise 10 percent of that; it is $134,000. After that, the taxpayers are going to pay 90 percent of it, roughly $1.2 million.

So, taxpayers are going to pay $1.2 million. then the eligible candidate is going to get broadcast discounts. They are going to get to buy campaign commercials from the broadcasters, one-half the rate of anybody else in America. I think that is awfully generous when you think about it.

Why should a U.S. Senate candidate get TV time at one-half the rate of the Boy Scouts or anybody else that is trying to do anything in America?

Actually, if you take that $1.2 million of subsidy, you can actually go out and buy $2.4 million worth of commercials with it. Also, an eligible candidate will receive reduced mail accounts. Politicians will get to mail at about one-fourth the rate of anybody else in America. You get matching amounts for, if anybody runs an independent expenditure, or if anybody exceeds the amount of the general election limit. We call all this voluntary but it is not voluntary because if your opponent decides not to participate, Uncle Sam is going to come back in and basically double this amount. As a matter of fact—I used the example of Alabama—If an eligible candidate's opponent did not participate, they could get up to $1.3 million courtesy of the taxpayers again.

So it is a pretty heavy hammer for those who elect and say, no, I do not want to participate, I do not want the taxpayers to pay for my campaign. Uncle Sam is going to come in and give your opponent another $1.3 million. Wait a minute, they have already given him $1.2 million under the proposal of the Senator from Massachusetts; they can buy twice as much media as anybody else in America, so that is worth $2.4 million, and then if your opponent does not participate, we are going to give him another $1.3 million on top of that.

That is 2.4 plus 1.3, we are up to $3.7 million, and I have not even added in the cheap mail. I have not added in the independent expenditure amount. And I have not added in the amounts we are going to have if we have independent candidates. My guess is that we are going to have a whole lot of independent candidates filing if we are going to have the Federal Government paying 90 percent of the cost.

Mr. KERRY. Will the Senator yield?

Mr. NICKLES. No, I will not yield this second. I would like to continue just for a moment.

What we are talking about is not just an entitlement program politician, a grab bag for politicians. We are talking about making enormous sums of Federal money available for anybody who wants to run for public office for the Senate.

I understand this does not include the House. And, when you start adding these figures together, they are astronomical. I have been amazed at the cost of the proposal that is now offered by my friend and colleague on the Democrat side. It is enormously expensive.

I mentioned one State, Mr. President. I just happened to pick Alabama because it is first in the list alphabetically. And the value of the subsidies, plus the broadcast discount subsidy, you add all that, you are in the millions of dollars for one State, an average-sized State, Alabama.

Wait a minute, we have 50 States. We are talking about millions of dollars just for one election. So when you consider all the Senate campaigns, you start totaling it up, and we are talking about millions and millions of dollars. We have calculated the cost not just for the 1996 elections but also for the 1998 elections and for the elections in the year 2000, so we would have a 6-year cycle. For the Senate alone, we were up to $450 million and that was under the previous proposal by our Democratic friends. That is $450 million just for the Senate alone, and that is a conservative assumption, I might tell my colleagues, because we assume no one exceeds the limits. We assume that everybody participates because of the heavyhandedness of this bill. It is not nearly as voluntary as some people would like to make it out to be.

If you have some people who want to be stubborn and say, "I do not want to participate. I am not going to do it. I am going to go ahead and run my campaign. I am not going to take any subsidies. I am not going to take the discounts," the cost even goes up more because you have the Federal taxpayers matching that excess contribution amount. So the cost could explode.

That is $450 million over a 6-year cycle just for the Senators. If you add in the House Members, you are talking about a bill that would cost the taxpayers over $1 billion over a 6-year cycle.

This is not an inexpensive bill. And then when we look at the Kerry amendment, it is even more expensive.

Taxpayers, look out. Taxpayers, the politicians in Washington, DC, are making a raid. There are a lot of people in here who want to get more tax money. They want to have tax money to finance their campaigns, and I think it is really pretty humorous.

I compliment my colleagues, I guess, for being very forthright. They say we want the taxpayers to pay for 90 percent of their general election campaigns. I think it is a ridiculous idea. I think it is one of the worst ideas that we have heard, but at least they are forthright. They are at least being open and saying, "Yes, here is what we want. We want taxpayers to pay for our campaigns."

That does not mean I am not for campaign reform. My colleagues are laughing. We have agreed to abolish PAC's; we could take a lot of the special interest moneys. I heard people say, "Oh, these special interests, they are so terrible." Let us say no one, no group, no entity, period, can contribute over $1,000. I think that would be a significant reform.

I am happy to support that reform. I think we can make a reform that would say Members would have to raise a majority of their money from their home State or home district. I think that would be good reform. I think we can ban soft money. We can do a lot of things that would be really significant reform, but probably the worst thing that we could do is say we want to open up the coffers of the taxpayers to come in and subsidize and pay for campaigns; that we are going to make the broadcasters offer Senate candidates and House candidates rates at one-half the rates of anybody else in America; that we are going to allow politicians to be able to mail at one-fourth the rate of anybody else in America and make either the postal users or the taxpayers pick up that little subsidy, as well.

No, I do not really believe that the American people are knocking down our doors and saying, "Please, we want to finance your campaigns through tax dollars. We really want to see the deficit go up so we can be paying more for your campaigns." I do not really think that is the case.

If they add up the total cost of the amendment of the Senator from Massachusetts, which would easily exceed a billion dollars over the next 6 years, or if they just add up the total cost of the underlying proposal, as originally introduced, the so-called leadership substitute that we will be voting on soon, I think taxpayers will be shocked to see that politicians are getting ready to make a raid on Federal tax dollars. Maybe we should declare Christmas in November and make American taxpayers Santa Claus.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I think what is neither shocking nor humorous is the fact that the Senator from Oklahoma has given a terrific speech—but not about this amendment, not about my bill. He is talking about $1 billion in costs. There is a fixed cost here, and it has been articulated. This is a classic example of a kind of hysterical response that has no relationship to the reality of this amendment.

I do not know what amendment he is talking about. I do not know what bill he is talking about.

Mr. NICKLES. Will the Senator yield?

Mr. KERRY. No, Mr. President, not right now.

This does not open up the coffers in an unlimited fashion. The fixed cost is based on the general election, and in the general election, you have only the major party candidates or somebody who is qualified in a particular State as an independent. You have a fixed cost there, number one.

Number two, if the Senator had read this legislation, he would know that you can only spend that amount of money that Americans have voluntarily chosen to put into the pool. If there is not sufficient money in the pool, there is not an automatic expenditure that covers everybody. You are notified a year in advance that there will not be sufficient funds, and you raise the money exactly as we raise it today for the difference.

So what we are betting on—and the Senator is unwilling to bet on it; he is unwilling to give to Americans the opportunity to make the choice. Ten percent of the citizens of Kentucky make the choice today. Citizens in Oklahoma make the choice today. Somehow, he thinks that we in Washington have cornered the market on wisdom and good judgment about what citizens who pay taxes want to do with their money. We are simply saying give the American citizen voluntarily the opportunity to decide if they want to put $5 into this effort.

The Senator said this adds to the deficit. Again, he has not listened to the debate. It does not add to the deficit one penny because it is fully offset, more than fully offset, by the giveaway today, the great giveaway that we have in this country that allows big lobbyists to deduct their expenses for coming to Washington to get their special interest legislation.

Before the Senator came to the floor, I gave a long list of all those special interest pieces. We give away billions of dollars in Washington to people who stand in the corridors outside the Ways and Means Committee and the Finance Committee and work their way. You can go back and look at the savings and loan crisis and see what a Congressman from Rhode Island did in the dead of night, taking $40,000 up to $100,000, just to make a few bankers very happy. And now we have the savings and loan crisis for $150 billion plus as a consequence of increased liability in this country. Dark of night; favored legislation; billions of dollars lost to this country because of money, money and politics.

So, Mr. President, I hope my colleagues will debate the right piece of legislation. It certainly would be less humorous.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate my colleague's explanation. I might mention, he is talking about taking the deniability of deductions for lobbying. That is already in the House tax bill. That is already moving through and may have been voted on. It is part of their deficit reduction plan.

Yes, they are going to raise taxes. They did not say anything about taxpayers paying for campaigns out of the tax bill. I did not know that was part of it. The Senator's amendment says the taxpayers can have a checkoff, but that is not to add $5 to their tax liability; that is to move part of the money that they are going to pay in taxes away from general revenues to finance campaigns, whether it be Presidential campaigns, or now it would be senatorial campaigns. It has an impact.

They are going to go ahead and raise those taxes anyway. Some of us are going to try and stop it. I hope we will be successful in stopping it, not particularly for this section, but there are a lot of provisions in the tax bill that the House is going to probably pass today that will put thousands of people out of work.

My friend from Mississippi made an excellent speech that I hope people had a chance to listen to because he tried to tell people what was in the tax bill. A lot of people are not aware of the facts. They heard people on the TV shows, and so on, talk about the tax bill being a bill that was going about 1 for 1, spending cuts versus tax increases. That is not the case.

The facts are the tax bill that the House is voting on has $291 billion in tax increases and $45 billion in spending cuts; $6.35 in tax increases for every dollar of spending cuts.

So I think we need to talk about facts. That is what is in the reconciliation package. I might mention, the lobbying expenses deduction is part of that package.

The amendment of the Senator from Massachusetts does say you can take $5 of your tax liability, that you have to write a check; the check you would write to Uncle Sam is exactly the same; you have no option in writing that check. You are told: Here is the amount of money you have to pay. Now, if you want to direct $5 of that to go to Senate campaigns, you can do so under his amendment. The net result is the deficit would go up.

Then I want to just touch on the fact that the Senator said, "He obviously does not know his figures." I am looking at the figures on the general election limit. The amendment of the Sen-

ator from Massachusetts says that if a candidate raises 10 percent of the funds, he could get 90 percent of the general election amount paid for by taxpayers directly; 90 percent.

I just used the State of Alabama. Let me use the State of Massachusetts. Let me see what is it. Ninety percent of that amount, general election limit, is $1,802,418. So 90 percent of that would be about $1.65 million.

For my State of Oklahoma, for example, our amount would be about $1.2 million; 90 percent of that, a little less than $1.1 million.

Well, that is a check that Uncle Sam is going to give me if I participate. And with that $1.1 million, because of other provisions in the bill, I am able to go out and buy TV time at one-half the rate of anybody else. So, if I get a check for $1.1 million from the taxpayers, I say, Thank you very much, and then I go to the TV stations and say, I'm a very special person. I am a participating candidate, so I want one-half the rate of everyone else. I do not care if you're a church, I do not care if you're a charitable organization, I do not care if the Easter Seals has a little deal and they just have to pay a little bit. I am a participating candidate and I want one-half the rate. I want one-half the lowest rate for anybody because I am special; I am a U.S. Senate candidate. Now, give me one-half the rate. This is great.

So I take my $1.1 million, courtesy of the taxpayers because I qualified. How did I qualify? I raised $100,000. That is not too hard to do. So then I take my $1.1 million and I can go out and buy a couple million dollars' worth of TV advertising.

I did not even mention the cost of the Independent candidates. But I will tell you if this provision passes, you are going to have more Independent candidates than you can dream of, because everybody that has a cause—they are not even going to be serious about becoming a U.S. Senator, but they have a cause, they want to carry their issue. Maybe it is an issue I agree with or I do not agree with. If they find out that Uncle Sam is going to pay 90 percent of the freight and they are going to get one-half the broadcast rate of everyone else, this is going to be a nice little time for them to sell their cause courtesy of somebody else.

Mr. MCCONNELL. Will the Senator yield?

Mr. NICKLES. I will be too happy to yield.

Mr. MCCONNELL. The Senator makes a very important point. Now the Supreme Court is not going to let the Congress unreasonably deny funds to these Independent candidates that the Senator is talking about. As a matter of fact, we already know that. There is a woman named Lenora Fulani, who has gotten millions of dollars from the taxpayers to run for President. And Lyndon LaRouche, who I think is currently in jail, has gotten over $1 million to run for President from these taxpayers.

Now, if we told the American taxpayers the truth about the current checkoff, there would be revolt in the streets, if we just gave them the straight facts about what was going on with the tax dollars they are already being asked to check off. I think some of them are figuring it out because you see it going down to 17 percent.

The Senator is right on the mark. Every crackpot in America who looked in the mirror some morning and said, "By golly, I think I see a Congressman," is going to reach into that cookie jar and get some of those tax dollars. And they are going to be off to the races, and the poor, beleaguered taxpayer of America is going to have to pay it.

I thank the Senator from Oklahoma for bringing up the Independent candidate issue. It is a very important one.

Mr. KERRY. Will the Senator yield for a moment?

Mr. NICKLES. I will be happy to yield.

Mr. KERRY. Let me explain to the Senator again that, while his point is intriguing and he has put it very well, it does not apply to this bill. The reason it does not apply to this bill is that the definition of majority candidate in this country under the Presidential process is such that it is based on the vote you got in the prior election, as the Senator well knows. So a candidate merely running as an Independent does not qualify for the money. They only qualify for matching, because that is all the law currently allows, unless they have been in a prior election and have received a specific percentage of the vote.

It is only the majority candidates as currently defined under the law in the Presidential races who would qualify for the full funding or the 90 percent funding. So, in effect, we cannot have this draconian consequence that the Senator has talked about.

Mr. NICKLES. Mr. President, I appreciate my friend and colleague's explanation of his side. But I happen to think that once you had a system opened up to where a major party candidate and you qualify, and Uncle Sam is going to pay 90 percent of election limits, a million plus for Alabama—let us see what it would be for Mississippi. Mississippi would be about $1.1 million. When we get into a more expensive State like Texas, you are talking about $3.8 million.

Mr. KERRY. Again, will the Senator yield for a moment?

Mr. NICKLES. California would be $5.5 million. So 90 percent of that is what? In my cost estimates, I will just tell my friend I left off Independent expenditures for the first 2 years. I put in a couple of Independent—or Independent candidates in the last years because I think they would be eligible. I think you would have an Independent candidate who would go to court and say, wait a minute, major party candidates, the Democrats and Republicans, they got a 90-percent subsidy. A $1 million gift from the taxpayers. Because they were—I think they would sue and be successful in court in gaining access to these subsidies.

Mr. MCCONNELL. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. MCCONNELL. The Senator is right on point. The courts will not allow this Congress to unreasonably deny access to public funds to people who are not either Republicans or Democrats. That is how Lenora Fulani has received the money. That is how Lyndon LaRouche received the money. And John Anderson, the first time he ran, got taxpayer money. He would have received more the second time he ran because of his electoral performance. But he was not denied tax money, so the Senator is correct. Independent candidates will be able to get public funding regardless of whether that is in the Kerry amendment or not. The courts are simply not going to allow this body, made up solely of Republicans and Democrats, to deny tax dollars to Independent candidates.

Mr. NICKLES. I thank my friend and colleague.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, this debate could be characterized a number of different ways: Rock on Jell-O. I guess you could say that the present system might be characterized as a "bag of golden mud." You could come up with a lot of silly metaphors. It has been characterized as humorous. And maybe there are parts that are humorous.

But one thing is clear. No one misunderstands their self-interest here. That was real obvious. The one thing for certain is no one misunderstands their self-interest. My friend from Oklahoma—he may not have the facts right or he may have them right; I will debate that in a minute. but one thing for sure he has right is his self-interest. He has that part down clear.

One of the problems here, Mr. President, is, it seems to me, that the debate has not changed in a long time. When I first introduced a public financing bill in 1974, one very powerful Senator from Mississippi stood up in a Democratic caucus—he did not even need Republicans to help him then—and said, "I just heard the speech from my young friend from Delaware." He said, "I would like to tell him that if he makes many more speeches like he did, he will be the youngest one-term

Senator in the history of the United States of America."

We walked out of the meeting. One of my senior colleagues in the Democratic cloakroom grabbed me. He said. "Boy, what's the matter with you?" He said, "What are you trying to do with this public funding?" He said, "I've worked for 31 years to build a donor base so I'd scare everybody off. I worked for 31 years. He got me in the corner—it is the God's truth, just like the Senator from Oklahoma will get anybody in the corner in his cloakroom or anywhere else—and he said, "Thirty-one years I worked. I've got it nailed down. No one can raise money in my State against me. What do you want to do, make this even? What's the matter with you, boy?"

That is the God's truth. I will tell you who it was. It was Warren Magnuson. He said, "What are you doing? Are you crazy?" Because the one thing everybody on that side of the aisle knows and a lot of people on this side of the aisle know, if this passes, guess what is going to happen? People with good ideas but no influence are going to have almost as much money to run. And instead of the Senator from Oklahoma, Like the Senator from Delaware, outspending his opponent 3 to 1 last time, he might have to do it on an even playing field. Would that not be tragic. Wow.

I want you all to understand what is going on here. Guys like me, I raise a lot of money. I raised a lot of money the first time because I was the only 29-year-old kid in America running. I was an anomaly. It was kind of fascinating. So, I could attract attention. "Youngest man in history to be elected to the Senate," they said Not true. There was one younger.

The point is I was able to get attention. People listened to my ideas. I was able to start to put together a campaign. I did not raise that much money. I raised $285,000. But I raised money. I was in the race. But if you are not one of the youngest people in history to be running, if you are not the first women or the first black, if you are not something that stands out, allowing you to get attention because of the uniqueness of your candidacy, boy, it is awful hard to raise money at the front end unless you go to people who have a lot of money.

I believe 99 percent, 100 percent of the Senators in here do not sell their votes. They do not go and change their views based on a contribution. But they do get a case of clientitis before it is over. What it does is slows the momentum. It results in silence rather than changed positions. It is a nuance. But, it is real.

My friend from Kentucky outspent his opponent 2 to 1 last time—by the way, I outspent my opponent too. We all know how this works. The one thing we do not want to have happen is the other person having the same amount of money as we have.

I want all of you listeners, all of the people watching this on C–SPAN to understand the reason why we have a hard time passing any public financing. When you strip everything aside, ask any of the people in here, do they want their opponent to have the same amount of money as they have? Do they want their opponent to have the same amount of access that they have to the media? Do they want their opponent to be able to express their ideas and notions to the same degree, to the same audience, with as much frequency as they do? That is democracy. Right?

My friends talk about democracy and the democratization of process and the prostitution of democracy by public funding. Ask them the question. I say to you voters in the 50 States, when you ask your Senators or your Congress persons or your Governors, look them in the eyes and measure the truth of their response. What is the essence of democracy? Equal access to forums, to provide the public an equal opportunity to evaluate your ideas, your character, your positions; to be as exposed to the public as your opponents, and your opponents as much as you are.

If you ask yourself if that is really what we are for, why have we not been able to figure out a way to do that? Do you ever think about that? Why do we not want to put limits on how much we spend?

Forget the Kerry amendment, of which I am a cosponsor, and any portion of public funding. Forget that. As Barry Goldwater would say, in your heart you know I am right. After you ask them, in your heart, make a judgment. My good friends on the Republican side, who are opposed to any form of public financing, I respect their view, who are opposed to any caps on spending, I respect their view, but see if there may not be a pattern here.

Ask yourself the logical question; if you were a juror, is the pattern that you see developing before your eyes one that lends itself to democratization of the process and easy access to the public to know where we all stand? Or, is it self-interest, plain old self-interest? Not corrupt, not immoral, not paid off, not auction-block government, just naked self-interest.

Ask yourself that question.

It is kind of interesting. When I ran for the U.S. Senate, I was 29 years old. I am going to reveal what many of my colleagues already know about me—how stupid I am sometimes and how naive I am sometimes. I will never forget, when I got the nomination, going to the Democratic Party chairman and saying, Mr. Chairman, how do I go about getting the checks for my campaign? It is the God's truth. He looked at me. He said, "I beg your pardon." I said well, I am a nominee now, how do I get the money to run my campaign? There is a Democratic Party and a Republican Party, and we are going to run against each other.

He looked at me, and he said—and I am paraphrasing; I think it is a quote, but I will say paraphrasing—you are 29 years old, are you not?

That's when I found out the naked truth. You had to go out and ask people for money. You could not ask people who did not have money. You had to go ask the people who had the money. You had to go to them and say, hey, will you help me run for office?

All of these people are good people. But if I walked up to somebody and said, I really would like you to help me in my campaign, they would say, "What do you think about taxing millionaires, Joe?" If I said, "Oh, I do not think they pay enough," how many millionaires do you think are going to contribute to me? What do you think? How do you think it would work?

Or, if I went to labor unions, and they said, we want a strikebreaker law, If I said, "I do not think that is a good idea," how many labor unions would say—tell you what, let me get the checkbook now, I want to help you, because you are an honest, decent man who has good ideas?

They did not exist at the time, but let us assume I went to a women's group—they do not have much money—and said, "I really do not think the equal rights amendments makes any sense, but I would like your help." Do you think they would give me money?

If we are lucky, because there is such a panoply of contributors representing all points of view, you do not get corrupted once you are here. What worries me is not once you are here. I really mean that.

I am the powerful chairman of the Judiciary Committee. Everybody here knows that is malarkey. But out there, people are not quite sure. So as the powerful chairman of the Judiciary Committee, I can find people who agree with my view, not me with theirs. They agree with my view because there is such a broad spectrum of them out there. I can raise the money. I do not have to give away a little bit. I do not have to promise anything to anybody about anything. And because, like the Senator from Massachusetts and many Senators on the Republican side, I have had the opportunity, through the good graces of the people of my State to get around this country a lot, I have supporters in a whole bunch of States. I raise a lot of money.

But you know the person who really is hurt, beyond the public, by the way the system works now? It is the earnest, honest, decent, intelligent, woman or man who wants to be involved in public service and says I am going to run for office, whose ideas may be superior to mine or anyone else on this floor, who wants to participate.

Let me tell you what they have to do, especially if they are relatively unknown. They have to do what I did when I was 29. I remembered at the end of my campaign that everyone was surprised except my deceased wife and me. We were neck and neck with a very decent, honorable, popular incumbent man named Caleb Boggs, a fine man who served in public life, when Richard Nixon was winning my State with 65–68 percent of the vote against George McGovern. I remember my friend from Massachusetts was running for another seat in another State at the time. It was not a good year for Democrats. And my radio advertising—I might add there was not one negative ad I ran, nor have I ever run—seemed to be working. I could not afford television.

A group of individuals, all decent men and women, wanted to see me to consider in the last 12 days of the campaign whether they would support me. These were men and women with significant capability, independently wealthy people, decent, honorable people who wanted to know whether they should support me. They asked if they could meet with me over coffee. They clearly had the capacity to contribute at least $20,000. For those who know my State, you know the capacity is significantly greater, and potentially much more, than other States.

My sister was my campaign manager and much younger than I was. I want the record to show she is much, much younger than I am.

My sister was managing my campaign, and my brother, who was in his early 20s was raising my money for me. My brother caught me before I got into the automobile to go to the meeting and said, "Joe, we just got a call from the radio station; we have no money left. All of your advertising comes off of the air in 24 hours." This is a true story. "You have no money left, Joe, and we are perilously close to winning this." So I went to this meeting knowing that if I were able to raise $20,000 to $30,000, I could keep my radio campaign on, which is all I had, and if things continued, I just may win, which I ended up doing.

We sat down, and these very decent and honorable people—which is their right; they were not trying to buy me—said, "JOE, we are thinking of helping, but we have to ask you a question. What is your view on capital gains?" Most of these people were very independently wealthy people, who had a lot of unearned income from an inheritance and investments. Look, I was not very smart then, and I am not sure I am a lot smarter now; but I was not so dumb that I did not know the right answer for $20,000. I knew if I said, "I really think we should lower the capital gains rate even lower"—which was the issue in 1972—that I had a very good chance of those people writing checks for me—legally, honestly, decently—for enough money to keep my radio on the air.

I am not sure what possessed me, but I looked at them and said, "Well, I do not think we should lower it." They were polite and nice and offered me another Coke, a sherry, a glass of wine. So I had my Coke, because I do not drink. Then they said, "thank you very much for coming here"

I got in the automobile and was driving down to my headquarters in the Market Street Building in Wilmington, DE, absolutely convinced that I had lost that election, absolutely convinced that my answer to that question denied me the win—which was their right; they were not doing anything illegal. But I felt that it cost me the election.

(Mrs. FEINSTEIN assumed the chair.)

Mr. BIDEN. After 2 years of blood and sweat—and all of us have run campaigns here, and many people have been involved in them, it is the most intense undertaking other than armed combat, I suspect; and I have never been in armed combat—I remember turning to my brother and I said, "Jimmy, we lost." He looked at me and he said, "Are you sure you feel that way about capital gains? We have time to turn around." I said, "I am sure."

I ended up winning a statewide election by about 3,000 votes. I was lucky, because a lot of things intervened in the last 10 days that were beyond my control that helped me.

I was honest. But the potential for corruption in the system is at the front end, because the ability of the human mind to rationalize behavior is overwhelming. No one but me would have known what I had said—most people do not know what capital gains are. Nobody but me would have known if I said: "I really think you have a point about capital gains." That is the problem with the system.

The truth of the matter is, Mr. President, the Senator from Oklahoma, the Senator from Delaware—meaning Senator BIDEN from Delaware—and the Senator from the State of Kentucky, none of us, in our hearts, really want a level playing field. None of us really want our opponents to be able to have the exact same amount of money.

I do not think you would get 40 votes in here if Ross Perot, God bless him, passed away tomorrow and left in his will a billion dollars, and if in his will he said: Any Senate candidate who will agree to spend absolutely no more money than their opponent, I will pay for the campaigns of both the opponent and the incumbent Senator; they will have the exact amount of money, you do not have to raise any money, and there are no tax dollars involved. I will bet you my life that none of my colleagues would ask for the money. No taxpayers' money, no involvement, nothing to do with the Government. They would not ask for the money, because they know if they got the money—and they do not like fundraising any more than I do—their opponent would get the same exact amount. I will bet you anything that none of them would take the money. No strings attached. The donor would be long gone; no influence; no requirements, other than you agree that your opponent gets the same amount of money from the fund, and neither of you will spend any more.

That is the truth of the matter. I respect that. I understand that. But we should stop the charades. It may be that the proposal of the Senator from Delaware from years past on total public funding, and it may be that this proposal—and I strongly support the Senator from Massachusetts in his proposal—it may be that they are not exactly the right way to do it. I think they are, but maybe they are not. But the public should understand the truth of the matter is not that everybody here is corrupt, not that Government is on the auction block—I reject and resent that accusation and that assertion. But the truth of the matter is that we do not want a fair fight. We do not want our opponents to be able to have as much as we have. That is the truth of the matter. And as long as the system remains the way it is, no one is going to voluntarily do it.

I wonder how many people out there who have run for office set a realistically high enough number with their opponent to say: I will spend no more money if my opponent will spend no more than this.

I am up for reelection, if I run again in 1996, and I am prepared to say that I will spend no more than $1,000 on my race, if my opponent will not.

There is nothing noble about that. I am an incumbent Senator. I can go on television any time I want—not always to my benefit, but I can go on any time I want. I am known by 99 percent of the people in my State. A challenger usually starts out, unless they already hold statewide office, known by no more than 25, 30 percent of the people in their State. So that would be phony of us. But, I wonder if the Senator from Kentucky would say: Next time I run, I promise I will spend no more than $2 million, if my opponent does that.

I bet he might not get that done. I will bet you. By the way, Democrats are the same. Democrats are not anxious to do that either. So I think it is time we have a little bit of—as they used to say in another context when I was in the Banking Committee a thousand years ago and, thank God, I am not anymore—"truth in lending." Let us have a little truth in advertising here.

The truth of the matter is that the core of this debate is an unwillingness of incumbent Senators—any incumbent: women, men, House and Senate, Governors, State legislators—to see

that their opponent has the same chance to raise the money, to have the same amount of money as they have to run for public office.

Two more points, Madam President: First, there is a lot of creative accounting. By the way, if I were my friend from Oklahoma representing the State and the party he does—and he represents honorably and notably and does nothing wrong and will do nothing wrong, I am confident—I would not want any of this legislation, would you? Why would you want this? I understand and respect it.

But the truth of the matter is, it seems to me, that we engage in a little creative accounting here. This is all taxpayers' money he says, when he adds up these figures. He gives the figure which is the total amount of taxpayer money that can be received and then the 50 percent deduction, which is not taxpayer money, that the television station has to give a candidate to go on the air. He calculates the cost of that and adds that to the bill and says that is the taxpayer payment. He is a worthy debater and imaginative young man, as I used be, and I can appreciate his debating technique. But, in fact, it is malarkey. We all engage in a little malarkey on the floor on occasion, including the Senator from Delaware. But I hope the public is not misled by it.

The other point I would like to make is my friends who oppose any form of public financing, keep telling me how outrageous the public will view this.

They seem absolutely convinced in that proposition, they are certain of it. Well, great. Then there is nothing to worry about because if the public is that upset about it, of course, they will not take any public financing and then they will run on the grounds that that other politician is the pig in the trough, and it will be a very significant political advantage they will have, and they will win more easily than they now win by outspending their opponents by 5, 6, 7, 8, 9, 10 to 1.

So, what is the worry? If the public wants no part of it, is not going to have anything to do with it, it seems to me it is in your naked political advantage to go ahead and not accept public funding.

I find that same story about Presidential elections, and I find it fascinating that people who could easily raise $24 million or $38 million who ran for President in the recent past chose not to do it and chose to go the route of public financing.

Why did they do that, I wonder? Did they do that because maybe they understand that the public does not like the way we raise money now? Did they do that because they thought it was a political disadvantage to take public funding?

The Senator from Delaware attempted to get the nomination for his party for President of the United States. I was conspicuously ineffective, but prior to getting out of the race I raised more money than anybody except one candidate, qualifying me to get matching funds. I left the race with a deficit. I refused to take the matching funds because I thought it would be immoral when I was no longer in the race. So I took no matching funds, although I was entitled to matching funds.

I wish my campaign manager were here. I think it was somewhere between $900,000 and $2.4 million that I was entitled to. I do not know the exact number, but it was a lot of money. I did not take a penny of it.

But guess what? Does anybody doubt that George Bush could have raised from the Republican money machine somewhere in excess of $30 million on his own? If this was such a liability, why did not George do that and say, "My opponent, the distinguished Governor from the indistinguishable State, the fellow who I do not know knows what he is talking about, is taking all this public money, and I took none"? Why did he not do that? Why did Ronald Reagan not do that? Why did every single Republican candidate, save one, not do that? It is because they know the truth of the assertion that the public is tired of this process.

Let me make a closing argument, Madam President. There will come a day when we will have public financing. It will take another major scandal before we get there, and I predict that it will result as a consequence of our colleagues on this floor concluding that it is too dangerous for their integrity and their reputation to continue to raise money individually on their own. Let me tell you why. Not because it is too dangerous that they will be corrupted, but because in order for the Senator from California to run, you have to raise millions of dollars. For every 1 Delawarean there are about 40 Californians. It is an incredibly expensive proposition.

The Senator from Delaware cannot even know the people individually who contribute to him, as much as he tries. We do not have an FBI that works for us.

So what happens? We find out that we get a contribution for $500 or $1,000 from Charlie Smedlap. In the middle of the campaign we find out that Charlie Smedlap is an ax murderer. Remember this guy Gacy who killed all those people out in Illinois? Remember during Jimmy Carter's Presidential campaign Gacy showed up at a fundraiser? The President had his picture taken with his arm around Gacy. It turns out Gacy is an ax murderer.

We do not have to go that far. How many of you innocently received contributions from people who were in the S&L industry? I do not mean thousands of dollars—I mean $1,000—but then spent $50,000 telling your constituents you did not know the guy was a crook, because you really did not know the guy was a crook.

When I started off, Madam President, I was 29. I was naive. I am now going to reveal that I am still naive. I think this is an honorable profession. There is nothing, save the clergy, that I can think of where you can help or hurt as many people, do as much good or harm as you can do in public service.

Plato allegedly said the penalty good people pay for not being involved in politics is being governed by people worse then themselves.

That is what is happening. Good people are not getting involved because they have to go out there and raise obscene amounts of money. You say, "BIDEN, if it is so obscene, why do you raise it?" I raise it because my opponent is going to raise it. I have no chance of responding to accurate or inaccurate assertions made by my opponent.

The people of this country know how much it costs to put on a 30-second ad. In the fourth expensive media market in America, Philadelphia, it can cost you as much as $30,000 for 30 seconds. God only knows what it is in Los Angeles and New York.

We all know if you cannot get on television, you cannot get your message across. So would you rather we go out and find the wealthiest people in America to contribute to us, or would you rather give us five bucks of our tax dollars so we can tell you who we are and so you can find out whether we are fools, whether we are smart, whether we are corrupt, whether we are honest, whether we are good, whether we are bad?

Madam President, I have no illusions about the ability of my Republican friends to filibuster anything and everything. They are very good at it. They are very, very, very good at it. And I have no illusions that if this amendment passes, as I hope it will, we will face the most interesting filibuster you will ever see.

So I also have no illusions about the likelihood that if this passes, we will be required to get 60 percent of this body to have it become law—because, to their credit, it is against their self-interest to see this pass. And the one thing I hardly ever expect, as naive as I am, is a woman and man in public life to operate against their self-interest. And it is clearly not in the self-interest of the opponents of this legislation to have caps on the amount of money that can be spent and at the same time have the prospect that your opponent will have as much money as you have to run the race.

I hear arguments about free speech. The same people who tell me about the first amendment are the first people that want to clamp down on the first amendment in ways that are outrageous.

But there is the kind of free speech argument that we hear today that translates into, just make sure my opponent does not have as much money as I have because, if they do, I might not have as easy a chance of winning.

This comes from a guy who is as good at raising money as most of you, does not do it badly, and fortunately is in a position like most of us here: we can raise it without being corrupted because we can make sure it is from so many different sources.

But when you are a challenger, when you are starting off, if you are a woman, if you are black, if you are somebody who does not come from an institutional constituency, you have a really hard time getting in the game.

And that is what this is all about. We do not want other people in the game. We think—people in this body think—we own this place. We do not. We do not.

That sounds like what I do not want it to sound like. That sounds moralistic. It is just human nature. Nobody wants the other person to have the same advantages they have in making a case in anything.

But it seems to me the exception should be, in a democracy, where we are supposed to compete over ideas, that the other people get an opportunity to have their ideas as broadly and as widely broadcast as the ideas of those of us who now hold the floor.

And hearing myself say that, I have held the floor now, I realize, longer than I wanted, and I now yield the floor.

I thank my colleagues.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I rise in opposition to this amendment.

I must say, Madam President, that the remarks of the past few minutes have been very interesting, an autobiography, I guess.

I cannot resist, a little bit of that myself. I think back to my experience in campaigns in Mississippi, going back over 20 years, 16 years in the House and now here in this great body.

But one of the things I was thinking about as the distinguished Senator from Delaware was talking is: How many people have ever come up to me in Mississippi and said, "What we need is public financing of campaigns"? Other than newspapers, nobody.

There is nobody in Mississippi or Delaware saying: "Give me public financing of campaigns."

Mr. BIDEN. Will the Senator yield?

Mr. LOTT. I am glad to yield.

Mr. BIDEN. Madam President, has anyone come up to the Senator and said, "Senator, I hope you are not going to take any of that big oil money," or "I hope you are not going to take any of that big labor money or that big PAC money"?

Mr. LOTT. Very few. Most people in Mississippi say, "Senator, because of your past votes, I want to help you."

And, as a matter of fact, the average campaign contribution in my campaign was around $129, and a lot of people gave a lot less than that.

That is what they say. They get involved.

I do not have big oil, as you like to say, in my State. We do not have it. And I do not have big labor support, either.

You were talking about being fair, and truth in packaging, having limits on campaigns, and public financing.

But we left out one little detail. We forgot the part of requiring the reporting of sewer money by a lot of the big people, such as labor, that opposed me.

When I got to the shipyard gate every 2 years when I was in the House, and again in 1988, there were people lined up in front of me handing out my opponent's literature, which they printed up.

I was standing there with one campaign person helping me get my material out. And I had to report what we paid that person who worked with me.

All these cats over here; it was not even reported. No limits on that; not even reported.

Mr. BIDEN. I agree with the Senator.

Mr. LOTT. I am glad you agree.

You talk about fairness, great. Put a limit on what you can spend, then give me public financing. Tell the broadcasters, "Hey, give me free time."

But there is one little detail. You get the advantage; some of your friends, our friends, get the advantage of getting this help, and it is not even reported.

I am not saying cut them out. I think we are insane for limiting the ability of parties to be involved in the process. That is what this bill would do, as I understand it.

But then we have this little group over here that is not covered because it is educational.

All I say is, at least let us get out there on the table who is doing what, what is really happening.

I cannot help but give a little bit of an autobiography, too.

When I ran the first time in 1972 as—guess what?—a Republican in the Fifth Congressional District of Mississippi, I was the first live one they had seen. When I went to Buckatunna, MS, and Poplarville, they said, "There comes one. Come on out here." They had never seen one.

I had the courthouse gang and they were, every one, Democrats. Every one of them lined up against me; as did most of the newspapers, most of the media.

I raised approximately $129,000, in small contributions; probably the average contribution was less than $50. My opponent raised around $169,000. He lost.

Now, that is not a great credit to me. It is a great credit to the system. The system is not so stinky, even though it is made to look that way.

Can we improve it? Sure. I would like to improve it. I wish we could develop a campaign finance bill where both sides get two peremptory strikes. We will strike out two things and you strike out two things, and let us see what we can get together on.

Let me give you another example. It can work the other way.

In 1991, in the Governor's race in Mississippi, an incumbent Democrat Governor had $4 million in Mississippi; 2.6 million people raised $4 million.

His opponent, who never held an elective office, raised $2 million and defeated him; with small money, too, by the way.

Mr. BIDEN. Will the Senator yield?

Mr. LOTT. I am glad to yield.

Mr. BIDEN. The Senator will acknowledge that the exception proves the rule.

Mr. LOTT. I am making the point, Madam President, that whoever raises the most money is not necessarily going to determine who wins.

I also want to make the point that in my own campaign in 1988, for instance, 72 percent of my money was raised from individual contributions; 72 percent. The majority of it was in my own State of Mississippi.

Mr. BENNETT. Will the Senator yield?

Mr. LOTT. I am glad to yield to the Senator from Utah.

Mr. BENNETT. As long as we are all being biographical here, I would like to add a little to this.

Mr. LOTT. We need a Utah input here.

Mr. BENNETT. Madam President, conventional wisdom here in Washington is as the Senator from Delaware enunciated it; that is, the candidate who has the most money or the best consultant always wins.

And that was the conventional wisdom that motivated my primary opponent, who spent $6.2 million in the State of Utah, where we have less than 2 million people.

I see the Senator from California in the chair. My opponent spent more on the Republican Convention in Utah than Mr. Herschensohn spent in California to win the Republican nomination.

He spent ultimately $47 a vote to lose the primary. He outspent me 3 to 1.

The conventional wisdom that we are talking about here, that says, "I am so terrified that my opponent will have more money than I have," has been proven wrong again and again. And I am glad to add to the Senator from Mississippi's store of examples that that is not true.

Mr. BIDEN. Will the Senator yield?

Mr. LOTT. addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. LOTT. I really like this type of debate, where we actually get involved in a little discussion and exchange; real live debate. I know the Senate is not used to that, so I am delighted to yield to the Senator from Delaware.

Mr. BIDEN. I will not take 30 seconds, Madam President.

I have had the great privilege of serving with the father of the distinguished Senator from Utah [Mr. BENNETT], the elder.

I would suggest the Senator from Utah today has a decisive advantage. There was not 2 percent of the population that did not know the name Bennett, and did not know you all. So that is a mild advantage. It probably took your opponent $2 million just to get his name recognition to where yours was. So I am not sure this was an exception.

I have great respect for the Senator and his father, both of whom I have served with, and I expect they might have won anyway, if they did not have any money.

Mr. BENNETT. If my colleague will yield, I say to the Senator from Delaware, when I filed I looked confidently toward the first poll. When the first poll came out, my opponent was at 56 and I was at 3 and there was a 4-percent margin of error. So there was a possibility that there was less than 1 percent of the people in the State who knew who I was.

When I put up my signs——

Mr. KERRY. That may well be why you got elected.

Mr. BENNETT. When I put up my signs I remember one fellow walking by and looking at it and saying, "Bennett for Senate, Bennett for Senate—I thought he was dead."

I had to spend the money I had to spend when I discovered the people of Utah, after 18 years with Jake Garn as Senator, had forgotten Wallace Bennett. I am glad there are people in this body who still remember him, but I had to spend the money because the name recognition was not there.

Mr. MCCONNELL. Will my colleague yield?

Mr. LOTT. I yield to the distinguished Senator.

Mr. MCCONNELL. I say to the Senator from Mississippi, the Senator from Delaware raises an interesting point about the well-known candidate. Obviously, the people of Utah had forgotten the name Bennett over a period of 18 years, but let us assume a well-known candidate, an astronaut or sports figure. Talk about a candidate who has an unfair advantage when you have spending limits. The unknown candidate is capped. The candidate starts with an enormous disadvantage.

Every time you jury-rig the process, you give somebody an advantage. If there was any one system that would jury-rig the system in favor of the sports figure, it would be this.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. KERRY. Will the Senator yield?

Mr. LOTT. I would like to go forward with my remarks, but I would be glad to yield to the Senator from Massachusetts.

Mr. KERRY. Again, responding to the Senator from Utah, I think we all know that there are situations in many States where an individual like Senator BIDEN, or the Senator from Utah, have run and there are upsets. We all know that. And it is not a rule that the greater amount of money always wins. We have seen that all through politics—the mayoralty race in New York with major expenditures.

But let me just point to the statistics overall. There is not anybody here who can alter the reality that incumbents have won more and challengers have won less, and challengers invariably have less money to spend.

In the last go-around, the Republican incumbents spent 2 to 1 against the challengers. We all know that one Democrat only, Senator Sanford, was upset. And on the Republican side, 2 to 1, the Democratic incumbents had the money, the Republican challengers did not, and again only one person was upset.

So the rate of turnover historically is extraordinarily low. And it is clearly impacted by who has access to the money.

Mr. LOTT. If I could claim my time, I think this bill is an incumbent protection bill in itself. Let us look at these numbers.

Consider a limit for the election cycle in my State or any State—just pick a State. Say you have a limit of $2 million. Then you get the public financing, you get free broadcasting time, and you tell your challenger—OK, come on and take this incumbent on. You have a tremendous advantage. The incumbent has the name ID. We has been in office; there are a lot of things he can do when he is in office. So you are going to limit your challenger to a specific amount of money—It will make it extra difficult to take on an incumbent with that kind of limit. Also, having been one on the outside looking in, with the establishment against you, the news media against you—this is an incumbent protection act.

But let me make a few other points here. The Senator from Delaware suggested you have to go to people and ask them for a contribution. Yes, to raise money to run for office you have to get out and work for it. You have to go out there and talk to people, listen to them. You have to sell them on your candidacy.

What is being proposed here is let us get the people out of this thing. We do not want to have to go to the people and ask for their contributions. Let us just give public financing to the candidates, and then we really will not have to worry the people. We will tell the broadcasters, "Give us free television."

Do you think we are not going to be sitting in Easy Street up here? We are going to have our campaigns paid for with public financing, assuming there is going to be money contributed that will allow public financing of these campaigns. We are going to get free television. This is going to be a great deal.

We are not going to fool the people with this. The American people are not going to buy public financing where we get a free ride, get up here, get our campaigns paid for and do not have to go out and work with the people, identify with the people—campaign. Somebody said you have to ask the people who have the money; you do not want to ask the people who do not have the money. I think it is a good idea to talk to people who work, have a little money they can contribute to the campaign. They are carrying the load for this deal. What is wrong with that?

Also, if there has ever been a case where there is going to be the camel's nose under the tent—people have this figured out, too. Once we start down this road, we will have total, complete, public financing of campaigns. And if, by the way, people do not check off the $1 or the $5, do not worry, believe me, we will get it out of the general Treasury. It will be food stamps for politicians. That is the way it will eventually go.

You say they will check off. Seventeen percent—that is all—check off for the Presidential campaign, and it has been sliding down for years. Do you think with the attitude they have toward Congress they are going to jump in there and say: "Oh, yes, I am going to check off $5?" I would not check off $5. I do not check off $1 for the Presidential campaigns. If I want to contribute to a candidate I am going to contribute to the one of my choice and only that one. I am not going to check off $5. Some of it might go to some of my colleagues here whom I would not want it to. I do not want a nickel to go to some of them. I will choose where the $5 goes that I contribute, whether it is a House race, Senate race, or mayor's race. It is called choice. Let us let the American people choose. They can choose to contribute to the candidate of their choice, not choose to contribute to the Federal Government for public financing of the clowns they are seeing performing.

I will be glad to yield to the distinguished Senator from Kentucky.

Mr. MCCONNELL. My colleague referred to 17 percent of the people nationwide checking it off. He might be interested to know in his State of Mississippi—we have a State-by-State breakdown—only 13 percent of Mississippi taxpayers check off that amount.

Mr. LOTT. An extraordinarily brilliant group of people. I have always felt this. People are not going to buy this.

We have heard a great deal today about this issue and other issues. This is not the solution. There are a lot of things we can do to improve campaigns and, hopefully, get people more involved directly in campaigns, but this, in my opinion, is one more step toward shutting people out. We will not need them. We will just pick up our check—in my case, I guess it will be $1.8 million or whatever it would be—and come on back to the Senate. Let us reject this amendment and get on with killing the bill in its present form.

I yield the floor.

Mr. BOREN. Madam President, have the yeas and nays been ordered on the Kerry amendment?

The PRESIDING OFFICER. They have not been ordered.

Mr. BOREN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from North Dakota [Mr. DORGAN], the Senator from Alabama [Mr. HEFLIN], and the Senator from Texas [Mr. KRUEGER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. MURKOWSKI] is absent on official business.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—35

Akaka	Feingold	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Harkin	Pell
Boren	Inouye	Pryor
Boxer	Kennedy	Reid
Bradley	Kerry	Riegle
Bumpers	Lautenberg	Sarbanes
Byrd	Leahy	Sasser
Conrad	Mathews	Simon
Daschle	Metzenbaum	Wellstone
DeConcini	Mikulski	Wofford
Dodd	Mitchell	

NAYS—60

Bennett	Cohen	Feinstein
Bond	Coverdell	Ford
Breaux	Craig	Gorton
Brown	D'Amato	Graham
Bryan	Danforth	Gramm
Burns	Dole	Grassley
Campbell	Domenici	Gregg
Chafee	Durenberger	Hatch
Coats	Exon	Hatfield
Cochran	Faircloth	Helms
Hollings	Lugar	Rockefeller
Jeffords	Mack	Roth
Johnston	McCain	Shelby
Kassebaum	McConnell	Simpson
Kempthorne	Murray	Smith
Kerrey	Nickles	Specter
Kohl	Nunn	Stevens
Levin	Packwood	Thurmond
Lieberman	Pressler	Wallop
Lott	Robb	Warner

NOT VOTING—5

Baucus	Heflin	Murkowski
Dorgan	Krueger	

So the amendment (No. 381) was rejected.

Mr. BOREN. Madam President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Madam President, if I could have the attention of Members, I understand that we have several amendments lined up. There is an amendment by the minority leader, Senator DOLE, there is an amendment then by the Senator from Rhode Island [Mr. CHAFEE], and two amendments that I know of by the Senator from Florida [Mr. GRAHAM].

Many Members have indicated to me that there are things going on; they would like to have about an hour at least if there are any rollcall votes. We do not know how many of these amendments will require rollcall votes. I assume there would be some of these amendments that would require a rollcall vote. I would, just to see if this will work, like to ask unanimous consent that if rollcall votes are ordered on any amendments between now and the hour of 8:15, those rollcall votes occur beginning at 8:15.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. I object.

The PRESIDING OFFICER. There is objection. The Senator from Oklahoma has the floor.

Mr. BOREN. Madam President, let me rephrase this. I would ask if there are any rollcall votes ordered on or in relation to any of the amendments that might be brought up between now and the hour of 8 o'clock, the rollcalls occur beginning at the hour of 8 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. BOREN. Not occur prior to 8 o'clock.

The PRESIDING OFFICER. There being none, that will be the order.

Mr. BOREN. Madam President, as I indicated, I believe there will be an amendment to the bill by Senator CHAFEE first and then Senator DOLE and then Senator GRAHAM of Florida.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. FORD. Madam President, will the Senator from Rhode Island give me 30 seconds.

The PRESIDING OFFICER. The Senator from Rhode Island yields the Senator from Kentucky 30 seconds.

(The remarks of Mr. FORD pertaining to the introduction of S. 1053 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 382

(Purpose: To prohibit out-of-State fundraising more than 2 years prior to the date of a general election)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. COHEN, Mr. JEFFORDS, Mr. MCCAIN, and Mr. DURENBERGER, proposes an amendment numbered 382.

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

The PRESIDING OFFICER [Mr. DASCHLE]. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . OUT-OF-STATE FUNDRAISING.

Title III of FECA, as amended by section , is amended by adding at the end the following new section:

"OUT-OF-STATE FUNDRAISING

"SEC. . A person shall not solicit or accept a contribution from a person that is not a legal resident of the candidate's State of residence prior to the date that is 2 years prior to the date of a general election for a congressional office in which the person seeks to become a candidate.".

Mr. CHAFEE. Mr. President, this is an amendment that I present on behalf of myself, and Senators JEFFORDS, COHEN, MCCAIN, and DURENBERGER.

Let me explain what the amendment is all about. One of the complaints that is made about our current system of campaigning is that we are on a constant money chase. The manager of the bill, the distinguished senior Senator from Oklahoma, has said that the average Senator must raise $2,000 every week of a 6-year term in order to have enough money to finance his reelection efforts.

We hear all the time the campaigns last too long, they start too early. Yet there is nothing in this legislation that addresses this problem. Certainly, I do not want to discourage debate or discussion of issues. But I do think we ought to limit the time in which we conduct our out-of-State fundraising activities.

Mind you, I am stressing out of State. No Senator should be what the Senator from Oklahoma, the manager of this legislation, has referred to as "full-time fundraiser and part-time lawmaker."

So I think we ought to take steps to eliminate the lure of fundraising

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events that may draw us away from official business.

So what my amendment would do is prohibit candidates from accepting or soliciting contributions from out-of-State donors in any year other than the 2-year cycle that the candidate is up for reelection.

Candidates, as I stress, would still be able to solicit contributions from supporters, residents in their own States, but no Senator would be permitted to engage in fundraising activities around the country throughout his or her entire term of office.

Similarly, a challenger, obviously, would not be permitted to raise funds from out-of-State sources until the 2-year period prior to which the date of election is for that Senator or that challenger.

Again, I want to stress that this has no limitations on fundraising activities within one's own State. This is a very modest amendment, Mr. President. I think it would improve the process if we eliminated the amount of time that was spent on fundraising.

Certainly, the public would prefer to know that we are working hard to solve the Nation's problems rather than to keep our campaign war chest full. So I offer this amendment on behalf of myself, as I mentioned, and Senators JEFFORDS, COHEN, MCCAIN, and DURENBERGER.

Earlier this month, the five of us wrote to President Clinton and the managers of this bill expressing our interest in helping to work out a good, solid campaign reform bill. Our letter included nine fundamentals that we felt were essential to real campaign finance reform. This amendment represents one of those points of concern which we enumerated.

I understand that this is agreeable to the managers of the bill. I am grateful for their help and cooperation.

It is my understanding that one of my cosponsors, Senator COHEN, wishes to address this subject.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, first, let me command my colleague from Rhode Island and say that I support his amendment, although I do not think it goes far enough.

We have heard many fine speeches made in this Chamber and beyond about how much money is being spent on campaigns both in the congressional races and the Senate races.

I have a somewhat simple view of it. It is easy to clear up without a lot of infringement upon the first amendment and without a great deal of complexity. Perhaps this solution is too simple to be true and too simple to be good.

No. 1, I would say just ban PAC's. There is apparently bipartisan support for this. I have indicated on the floor before that I find no inherent evil lurking in the formation or the activities of PAC's but, nonetheless, the public has come to see them as an evil in the system. So, therefore, we should vote to ban them.

The majority leader has indicated the Democratic majority now supports a ban on PAC's.

No. 1, no PAC's.

No. 2, no bundling of contributions.

I know the Senator from Oklahoma is in support of this provision.

No. 3, there should be no soft money. No soft money by the PAC's certainly, no soft money by parties, and no soft money by any organization should be allowed.

No. 4, we should try to deal with the issue of multimillionaires or millionaires running for office. There should be a limit on what one can contribute to his or her own campaign.

We must enact a reasonable limit on the amount an individual can contribute to his or her campaign so that we eliminate the possibility of millionaires buying into the U.S. Senate or the House of Representatives.

I would prefer a lower limitation on the amount of individual contributions. The Senator from Minnesota proposed a $100 limitation. Perhaps that is too low for some, but nonetheless a limit on individual contributions is necessary.

I would go further than the Senator from Rhode Island in reducing fundraising out of State. I think a majority of funds should be raised from within one's State. I know this will generate a good deal of controversy because the argument will be that there are a lot of poor States in this country. Maine happens to be one of them. There is not a lot of money available in Maine.

Well, that is true, and that, of course, will solve the problem of too much money being spent in campaigns throughout the State of Maine. If candidates are forced to raise most of their funds from within the State, then the people of Maine will receive a scaled-down campaign. Each candidate will be bound by the same rules, in that case.

We will not have this appearance of Members of the Senate or the House boarding planes and taking off and traveling to Florida, New York, Texas, California, Rhode Island, and various other meccas of campaign funding sources. He or she will spend most of his or her time within his or her own State gathering whatever contributions they can. That is as I think it should be. We should have different limitations, as such, for States around the country.

I think the people of Texas are fully capable of judging whether too much money is being raised and spent within that State. I think the people of California are fully capable of judging whether or not too much money is being raised or spent by candidates in that State. I think the people of Maine can make a determination as to whether I or anybody else is raising too much money, or spending too much time raising money, or spending too much money in my State, and vote accordingly.

I do not think we should be raising money when we are not up in that election cycle. I know it is a practice of a number of Members of this body to, from the moment they are elected, start replenishing their coffers and start the fundraising activities. I think we should stop that. I think it is a practice which is too common. Some Members start the process all over again, no sooner having been elected, and are out raising money again to build up the reserves so they can scare off or intimidate potential challengers.

I think it puts a particular burden on congressional candidates who have to go out and try to come up with the same kinds of resources for their campaigns, and there senators are out competing against them for funds. As a general rule, I think we should confine our fundraising activities only to the cycle during which our campaigns are scheduled—during the last 2 years of our terms. The response from some would be: Well, we are going to spend too much time during the final 2 years raising money. I think not.

I think we have an obligation to carry out our responsibilities here. I do not find myself in a situation of spending every third hour, or whatever the calculation is, raising money. As a matter of fact, I do not start raising money, in any significant way, until the final 2 years of my term. That is the way I think it ought to be.

I yield to the Senator from Kentucky.

Mr. MCCONNELL. The Senator is right on the mark. We studied how the money is raised, and 80 percent of the money raised by Senate candidates does come in during that last 2 years of a 6-year cycle.

I think the amendment is an appropriate amendment. Contrary to what has been stated by many on the floor, almost no Senators raise money constantly. Eighty percent comes in during the last 2 years of the cycle.

Mr. COHEN. If that is the case, Mr. President, it will not impose an undue burden to confine Members to fundraising during the last 2 years of their term in office.

I would go further, in the sense that I would insist that we have a majority of the fundraising take place within the State. In the amendment of the Senator from Rhode Island, it would say you must confine your out-of-State fundraising to that last 2 years. I think you should confine your fundraising, primarily, to your own State.

Again, I anticipate the arguments will be: Well, rich States will have much more expensive campaigns than

will the poor States. But I think that is a matter that individual constituents can make up their minds on, as to whether they would like to have scaled-down campaigns. Perhaps that is as it should be.

If you want to really stop this merry-go-around of climbing on the horse and riding it out to Los Angeles and back—and many of us do spend time going to various States where there is a great deal of wealth to seek support—a way to change that would be to require the bulk of fundraising be done in your own State. Let each individual State pass judgment as to whether or not the candidate who is running for office is seen as seeking too much money out-of-State versus that from within the State.

That is a view that I have come to adopt, and I think it would solve many of the problems that we currently see as far as campaign spending abuses.

I support the Senator's amendment. I would further, but I am pleased to add my support.

Mr. JEFFORDS. Will the Senator yield?

Mr. CHAFEE. Yes, I yield.

Mr. JEFFORDS. Mr. President, I would like to address the amendment. I want to add my commendation to the Senator from Rhode Island for his participation with the other three or four of us who are dedicated to bringing about meaningful campaign reform. I think this is one of the amendments that will help us along that direction.

I believe very strongly that we must restrict the amount of time that we spend raising money, as pointed out by my colleague from Maine. I also agree with my colleague from Maine that we should do more to restrict the amount of out-of-State money that comes into campaigns. I have made that offer in every one of my campaigns, that we should restrict the money, at least the majority of it, coming from within the State. Nobody has taken me up on that offer yet, but I hope that some day we will be able to get it into law.

I want to run down through some of the areas that the Senator from Maine mentioned. I will accept the ban on PAC's. But I have a serious problem with a ban on PAC's, for the money is going to follow power and will somehow get in there. I would rather have it controlled and limited and exposed and disclosed, rather than getting back to the system of money floating around in individual contributions, and you try to figure out where they are coming from.

I accept the ban here, because I know we have to go into the House. I am more deeply concerned about the problems in the House, which is refusing to at all reduce the amount of money coming from PAC's and to live with existing limits. I am concerned about the ability of the House Members, especially the Republicans, to be able to in any way get any meaningful reform over there.

So I am going to do what I can to try to make sure we end up with a level playing field.

Mr. COHEN. If the Senator will yield, Mr. President, I take it that the Senator from Vermont would insist that whatever rules we adopt for the Senate, he would insist that the same rules be adopted for the House, particularly as they pertain to PAC's?

Mr. JEFFORDS. There is no question about that. I thank the Senator for bringing that up. That is one of my major goals, and it is the goal of the four others with me here. To allow each body to have different rules in these critical areas would make a mockery of trying to come about with constructive reform here.

I am dedicated to the proposition that we must end up that way.

Another very critical area is the matter of soft money. Hopefully, we will be able to work out a solution to that. I am working on it now. In my mind, first of all, we have to disclose all soft money. But unless we have an equal playing field on the ability of utilization of so-called soft money, I cannot go along with a system that allows the unfairness of someone coming in and basically doing a great deal of campaigning on soft money legally, first of all, without disclosing it; and, secondly, leaving other candidates with the inability to be able to compensate for that expenditure of funds in any way, leaving a very unfair playing field.

That is another area which is extremely critical to me and one that we must make sure the rules are the same for the House and Senate and that we have a level playing field with respect to the utilization of soft money or even ban all soft money.

The limits on millionaires I certainly agree with, and I think we are coming about with reasonable limits in that regard. I know Senator MCCAIN, from Arizona, will be offering an amendment later, which I will support, in that regard.

I also emphasize again I think it is very important for us to ensure that we try to limit the out-of-State money, and I would certainly join with the Senator from Maine in trying to pursue that area.

But I end up by commending again the Senator from Rhode Island, and I am happy to yield.

Mr. COHEN. Mr. President, I would like to point out that indeed I, like others, have in fact sought funds outside the State of Maine.

If we are to have fundamental reform and uniform rules, it seems to me that is one area where all of us should be willing to agree that we ought to reduce dependence on funding from outside of our State. That may be prevented by the fact that, as I pointed out before, I had a multimillionaire run against me who could write out a check for $1.75 million or $7 million. That puts me or any candidate to a substantial disadvantage. So many times we are forced to seek resources wherever we can.

If we are concerned about appearance and talking about fundamental reform, it seems to me, if we adopt a uniform rule, each candidate would raise the bulk of funds from within their State. I think a great deal of concern raised about what has happened to the funding of our political system would at least be satisfied.

Mr. JEFFORDS. Mr. President, I could not agree more with my friend from Maine.

I also thank the manager of the bill for his cooperation in trying to bring about this kind of meaningful reform, which, hopefully, will lead to our being able to get a bill out of here that will solve many of the problems that the public has with campaign funding.

I want to turn it back to my friend from Rhode Island again and commend him for his efforts in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Vermont and distinguished Senator from Maine for their very kind comments.

It is my understanding that the managers of the bill are prepared to accept this.

There is one point that I would like to make, Mr. President, and that is in the bill we say as follows: "A person shall not solicit or accept a contribution from a person that is not a resident of the candidate's State of residence."

By that we mean shall not accept a contribution from someone who is registered to vote outside your State. By residence we mean voting residence. In other words, if I am at home in Rhode Island out of the last 2 years of my cycle, and someone in Rhode Island for the summer wishes to give me a large check, if that person was not registered to vote in Rhode Island I could not accept it. Just the fact that he is physically present in Rhode Island is not enough. He would have to be a registered voter outside of the cycle. Within the cycle, of course, it would be perfectly acceptable.

Mr. COHEN. Does that mean if the Senator from Rhode Island spent August in Maine, he would not be able to contribute to the Senator from Maine?

Mr. CHAFEE. During the off-cycle. Also, it means when the Senator from Rhode Island is vacationing in Maine, he cannot tap those wealthy Mainers up there for a contribution out of cycle, but in cycle obviously we can do everything we possibly can.

I do not want to press my luck any further. If the managers will accept amendment. I would be delighted.

The PRESIDING OFFICER. Is there further debate?

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I am willing to accept the amendment of the Senator from Rhode Island and colleagues. I commend him and the other authors of this amendment for offering it.

As has been indicated by those who offered this amendment, it makes a good product of their work, which singled out one of the item in the letter they wrote to me and wrote to the majority leader and others listing concerns about the current campaign finance reform proposal. We have had very healthy and constructive conversations. I have had conversations among others with the authors of this amendment.

There are other points that have been raised that certainly we are still endeavoring in a very constructive and bipartisan spirit to take action upon as well. I am optimistic we will be able to do that and to make real progress on this bill and do it in a bipartisan way.

I share the desire of the authors of this amendment that more of the funds raised in campaigns come from the home States and the home district of those candidates. I think that is healthy. That helps to return the political process back to the grassroots where it belongs, not only in terms of political activity, but also in terms of fundraising.

So I commend the authors of this amendment, and I not only am willing to accept it, I heartily endorse it and support it fully.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I too have no problem with the amendment of the Senator from Rhode Island. I think it is a good amendment. There is no objection on my part.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 382) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 383

Mr. DOLE. Mr. President, I now send an amendment to the desk on behalf of myself, Senator BROWN, and Senator LOTT and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. BROWN, and Mr. LOTT, proposes an amendment numbered 383.

At the appropriate place, add the following:

"It is the sense of the Senate that every employee in the executive or legislative branch of the Federal Government shall follow appropriate officially prescribed procedures in contacts and dealings with the Federal Bureau of Investigation and the Internal Revenue Service."

Mr. DOLE. Mr. President, this is a sense-of-the-Senate resolution, and it follows up on what I think is a very serious allegation that has been made, and we have been looking for serious answers to some troubling questions.

Let us face it. It is serious business when we hear reports about cronyism, and unusual access to the White House by special interests who may be looking for special consideration.

It is serious business when reputations are smeared on national television, without notice of the charges, without any opportunity to respond, and without any conclusive proof that the charges are in fact true—and they may be true. I do not know. But I do know that five of the seven travel office employees have now been unfired.

And, it is very serious indeed when powerful figures in the White House believe they can manipulate the FBI. The FBI is not the Democratic National Committee. It is not a political consulting firm. Yet its integrity was compromised when it was ordered to assist in political damage control.

As more information comes out in the press, more questions are raised.

For example:

On May 13, who authorized White House Associate General Counsel William Kennedy to contact Frederick Verinder, the Deputy Assistant Director of the FBI?

Who at the FBI then authorized Verinder to attend a White House meeting with Kennedy? What role did the FBI play in the so-called Peat Marwick audit, which turned out not to be an audit after all?

Who authorized John Collingwood, the FBI's public affairs officer to attend a White House political strategy session on May 21?

Who at the White House summoned Collingwood to the political strategy session? And what was said at the meeting? Who drafted the FBI press statement that the White House later released to back up its claim of wrongdoing at the Travel Office?

And who within the Justice Department knew about the FBI's involvement? Did Webster Hubbell know? Did the Attorney General know? Should she have known?

Unfortunately, Mr. President, the questions do not end here.

Now, we are told that the White House Chief of Staff has been put in charge of sorting out the very mess that occurred under his watch. And there are press reports stating that three IRS agents appeared last Friday—unannounced and with summonses in hand—at the offices of one of the airline charter companies that did business with the Travel Office.

Who authorized the IRS agents to seize the records of the Charter Co.? Is there a connection between the White House political strategy session and the IRS' actions?

Mr. President, can anyone please tell us, what is going on here?

Mr. President, this past Tuesday, I sent a letter to the chairman of the Judiciary Committee requesting an impartial, bipartisan hearing to get to the bottom of these issues. Senator HATCH, the ranking member on the committee, and seven other Republican Senators have also written to Senator BIDEN making the same request.

We have not yet heard back from Senator BIDEN, but I think it is a serious request. I think it should be taken seriously, and I do also hope with a letter to the FBI Director, Mr. Sessions, and the Attorney General we will have some information from them.

In the Bush administration, Attorney General Bill Barr appointed special counsels in the House bank scandal, and in the BNL and Inslaw cases, so there is plenty of precedent for this approach. And I know that Attorney General Reno herself has expressed deep concerns about the way the FBI was mishandled by the White House handlers.

Let me add, that I want to put this affair behind us, and do it quickly. The American people expect us to deal with the serious problems facing America: Health care reform, creating jobs, reducing the deficit, putting more police on the streets, reforming the welfare system, and giving our kids a chance to attend a quality school.

But the American people also expect us to reassure them that the FBI is still an independent law enforcement agency, and that the appearance of impropriety at the White House is just that—an appearance. But, without some real answers, the American people will continue to lack confidence in a White House that is paralyzed by its own kind of self-inflicted gridlock.

Mr. President, the Washington Post, the New York Times, and the Chicago Tribune published editorials yesterday proving that this is not a partisan matter, but a story of missteps, miscommunication, and potential wrongdoing that should concern all Americans, regardless of party affiliation.

I ask unanimous consent that these editorials be printed in the RECORD immediately after my remarks and I also ask unanimous consent that an essay by William Safire appearing in today's New York Times be printed in the RECORD as well.

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

[From the New York Times, May 26, 1993]

MYOPIA AT THE WHITE HOUSE: THE FBI ABUSED

By design or incompetence or a blend of the two, the White House has used a highly vulnerable F.B.I. for unworthy political purposes. Though President Clinton's staff finally admitted yesterday that the process that led to the firing of the seven-member White House travel office was full of mistakes, it exonerated itself of meddling with the F.B.I. But meddle it did.

Last Friday the F.B.I.'s public affairs director, John Collingwood, was summoned to the White House, where to staff members sought his help to get them out of a major political jam.

The press corps was rightly demanding that the White House explain why it had sacked the travel office employees and, with unseemly haste, transferred their duties to aides and cronies of the President. Mr. Clinton's staff extracted what it wanted: authority to say that the F.B.I.'s investigation was criminal in nature, a finding the White House quickly disseminated to the press.

Rarely has the F.B.I. so rapidly confirmed the existence of a criminal investigation. Its usual sluggishness often severs justice by protecting targets who, like the seven cashiered officials, are presumed innocent. This time the White House used the F.B.I.'s obliging speed to further defame the departed employees, who were not allowed to defend themselves before their dismissals.

The White House has now announced that five of the seven are to be kept on administrative leave pending an internal investigation by Thomas McLarty, the chief of staff, and Leon Panetta, the budget director. It will be fascinating to learn what it thinks went wrong. Was it the wholesale dismissals without due process? Was it the assignment of the travel business to a Presidential cousin, and attentiveness to the complaints of a Presidential friend, Harry Thomason, that his friends could not get any White House travel business? Or was it the abuse of the F.B.I., enlisted to dignify political firings by intimating that financial mismanagement might be criminal?

Yesterday's statement by Bernard Nussbaum, the White House counsel whose office is supposed to spare Bill Clinton such ethical grief, amounts to a self-acquittal of any charge of tampering with the F.B.I. Attorney General Reno complained to Mr. Nussbaum that his lawyers had bypassed her when it summoned the bureau. Mr. Nussbaum says he won't do that again but insists he broke no rule.

Technically, Mr. Nussbaum has a point. There's nothing inherently wrong with seeking investigative help if wrongdoing is genuinely suspected. Under rules worked out in response to the Senate Judiciary Committee, the White House is supposed to go to the F.B.I. via the Attorney General's office only in "pending" investigations, not inquiries that the White House itself initiates. But the resort to technical language only underscores the failure of Mr. Nussbaum's office to appreciate the seriousness of its dealings with the F.B.I.

Fortunately, Ms. Reno blew the whistle, acting as an objective public servant while warning all other purported friends of Mr. Clinton to keep their paws off the F.B.I.

[From the Washington Post, May 26, 1993]

THE MISSING VOICE

Now it turns out that three of President Clinton's principal aides, including the White House counsel, caused an FBI official to alter a press release to reflect the White House line in the increasingly smelly affair of the White House travel office. It looks as if the FBI logo was being used by the White House as a political shield. Attorney General Janet Reno, whose confirmation hearing was marked by a promise to keep the bureau and Justice Department generally out of politics, was upset enough to complain about what she regarded as a breach of procedures meant precisely to insulate the bureau. Won't happen again, said the veteran counsel, Bernard Nussbaum. Did Mr. Nussbaum fail to understand that it was happening in the first place? The other senior officials, Director of Communications George Stephanopoulos and Press Secretary Dee Dee Myers, denied any pressure was applied. At the end, the FBI press release was just "clearer," Miss Myers said. You bet it was. And what of the president for whom these people work?

"I had nothing to do with any decision, except to save the taxpayers and the press money," he said when asked about the matter yesterday. "The only thing I know is we made a decision to save the taxpayers and the press money. That's all I know." But it's not all he knows. He knows, even if he himself had no hand in the matter—and there's no evidence he did—that last week seven longtime career employees in the White House travel office, a kind of in-house travel bureau for the press, were summarily fired. At the time, the press secretary said the reasons were "gross mismanagement" and "shoddy accounting practices" found in an examination by the Peat Marwick accounting firm; she added that the matter had been turned over to the FBI. But then it turned out that:

1. The job of running the travel office, which makes millions of dollars of travel arrangements for the press at press expense each year, had been turned over to a cousin of the president who had been an aide in the Clinton campaign and had written a memo in mid-February suggesting she be given the position.

2. An Arkansas travel agency, itself with past connections to the Clinton campaign, had been installed under her. A few days later it was hastily removed lest there be "any possible perception" that it got the business because of its connections.

3. The firings had also been preceded by a complaint from Hollywood producer Harry Thomason, a Clinton friend, that some charter companies had been shut out of the lucrative travel office business; then it was disclosed that Mr. Thomason himself had an interest in one of those.

4. An aide to Mr. Nussbaum had unilaterally called in the FBI in the travel office case before Peat Marwick made its report. His call, too, was in violation of the protective rule that the White House should contact federal law enforcement officials only through the attorney general.

Mr. Clinton knows all this because it's been in the papers, it's been all over television, and it's done his administration no good at a time when it is in desperate need of all the good news it can get and surely no more bad. Nor is it just that; this thing is wrong. We've said before that we have no idea what the fired travel office officials may or may not have been doing (the firing of five was rescinded yesterday in another reversal and tacit admission of error; they were put on administrative leave with pay instead). But it was wrong to smear them in public as wrongdoers in advance of any finding that they have done wrong. If they were fired for unconfessed political reasons, that was wrong, too. And the apparent muscling of the FBI to put a stronger gloss on the case (even as its director fights and is beholden to the White House to keep his job) was wrongest of all.

What does the president think about keeping politics and law enforcement separate? What if anything has he said or is he going to say to his staff about it? Or will this one, too, be left to Miss Reno? We'd like to know.

[From the Chicago Tribune, May 26, 1993]

CLINTON TRIES TO SHAKE "TRAVELGATE"

Bob Dole has no incentive at the moment to moderate his criticism of President Clinton and every reason to exaggerate.

But it was no exaggeration when the Senate minority leader on Tuesday compared the Clinton administration's use of the FBI last week in the flap over the White House travel office to Richard Nixon's attempt to pervert the agency to political purposes during Watergate. It is an outrage.

Whether because of Dole's comparison or Atty. Gen. Janet Reno's blowing her stack, the gravity of the situation finally seemed to penetrate 1600 Pennsylvania Avenue. Five of the seven travel office firings were re-explained as "leaves"; apologies were issued for the abuse of the FBI, and an investigation by Chief of Staff Thomas McLarty and Budget Director Leon Panetta was announced.

It is unlikely these actions will quiet the calls for congressional investigations or special prosecutors. Those calls may be premature, but they may turn out to be justified.

But the White House actions at least suggest that Clinton has awakened to his staff's inadequacies and to how desperately he needs to act to get his crew into line. His presidency, quite literally, could be at stake.

It was disclosed Monday that the White House called in John Collingwood, chief FBI spokesman, last Friday to participate in a political strategy session on how to soften the public impact of disclosures of cronyism and nepotism in the travel office affair.

Collingwood apparently was persuaded to amend an agency statement on the travel office case to support White House assertions that possible criminal misbehavior by the seven longtime government employees of the office had led to their abrupt dismissals and replacement earlier in the week.

In fact, the evidence points increasingly to a shabby attempt at patronage by the Clinton White House. Harry Thomason * * * from Hollywood, is said to have complained that an air charter company in which he has an interest had been unable to get any White House business. And Catherine Cornelius, a Clinton cousin, had co-written a memo in February urging replacement of the travel office with a company with which she was associated.

It was to blunt the embarrassing impact of those revelations that the White House abused the FBI. Small wonder that Dole discerned a resemblance to Watergate. Small wonder that Reno, who had hoped to dispel 12 years' worth of suspicion about the Justice Department's fairness, was hopping mad over the White House's violation of procedure in bypassing her to contact the FBI independently.

No doubt the White House hoped its actions Tuesday would bring closure to this episode. No doubt Richard Nixon hoped the same thing many times.

[From the New York Times, May 27, 1993]

THE LEMONADE STAND

(By William Safire)

WASHINGTON.—Here's the good news: they're learning.

George Stephanopoulos, 32 going on 50, is no longer cockily expressing amazement that anyone could be interested in a minor shakeup in the White House travel office. On the contrary, he is admitting mistakes, showing contrition, learning. What he needs most is a good synonym for "inappropriate."

"Mack" McLarty, the Clinton chief of staff ever since kindergarten, put five of the dismissed staffers back on payroll. "Mack the Nice" and Leon Panetta will try to see that political patronage and police power do not again get mixed.

White House Counsel Bernard Nussbaum, who served with Hillary Rodham on the House impeachment staff 20 years ago—discovering abuse of the F.B.I. for political purposes by the White House—admitted no wrongdoing in getting the F.B.I. to front for a little nepo-cronyism, but promised Attorney General de jure Janet Reno never to go to the F.B.I. behind her back again.

These three men have properly assumed responsibility for the mishmash of hubris, favors, white lies, inexperience, misunderstandings and ignorances that led to a mini-firestorm—compounded by the $200 haircut, for which they'd better be sure the President paid.

This column would have gone on in this upbeat fashion, anticipating a swing of the pendulum in Clinton's favor, but for two reactions from people who didn't get the word, plus one stonewall.

One was from the fellow playing the piano downstairs, blissfully unaware of what was going on in the rest of the house. "I had nothing to do with any decision," declared Bill Clinton, "except to save the taxpayers and the press money."

Why is his opening song always "Don't Blame Me"? Later, prodded by those who remembered the public reaction to his Waco blame-ducking, he was persuaded to take "ultimate responsibility."

Then Linda Bloodworth-Thomason, standing by her man to a gentle Jim Wooten on ABC's "Good Morning America," adopted the too-rich-to-steal defense: How could any couple who made over $6 million a year, and who had a lousy $25,000 investment in a travel business (pocket change), possibly want to deprive six little people at the White House of their living? "It's sort of the equivalent of taking over a lemonade stand."

Perhaps, to the Clintons' best Hollywood friends, an $8-million-a-year travel operation—which the President's cousin Cathy was eager to run, and the Thomasons' air charter buddies were hungry to profit from—is a mere "lemonade stand," a figure of speech that betrays contempt for the poor slobs with cheaply shorn tresses who voted for Clinton.

And perhaps the White House's application of the full power of the F.B.I. in providing cover to Clinton patronage is all in the imagination of "the incestuous insane asylum" that is the national press, as Mrs. Bloodworth-Thomason charged, which will hardly endear her to mental health workers.

But the craven conduct of the Justice Department in this affair is worth a closer look. On May 12, William Kennedy at the White House summoned F.B.I. agents; they took the data to Thomas Kubic, the White Collar Crime Section chief; he took it on May 14 over to Jerry McDowell, of the Fraud Section of Justice.

The Thomason-triggered probe then went to John Keeney, acting chief of the headless Criminal Division, who reassigned it to Joseph Gangloff, running the Public Integrity Section; on Wednesday, May 19, a two-page "Urgent Report" was forwarded by Keeney by hand to Attorney General Reno, copy to Webster Hubbell. The next day, Stephanopoulos began putting out the word, getting the F.B.I. press agents to strengthen the language.

Not until the following Monday, May 24, when she read a barb in this space about White House abuse of the F.B.I., did Ms. Reno call Nussbaum with her complaint about not being informed of the investigation.

That made her look like the injured party, and caused the Counsel's office to promise never to ignore her again. Ms. Reno will not take a call from me on this; a press aide, Carl Stern, blowing his cool, will say only "Use your sources." It seems that the Attorney General's big problem is with not reading her urgent mail.

Mr. DOLE. Mr. President, this amendment is simple, but goes right to the heart of the whole fiasco. It expresses the sense of the Senate that every employee in the executive or legislative branch must use official procedures when dealing with the Federal Bureau of Investigation or the Internal Revenue Service.

No doubt about it, the American people deserve to have confidence in an FBI and an IRS that can make decisions free of political considerations. If we are going to learn anything from these events it is this: Politics and law enforcement do not, and should not, mix.

I urge my colleagues to support this important principle by supporting this amendment.

Mr. President, I urge my colleagues to support this amendment.

Mr. COHEN. Mr. President, I wish to join with the minority leader in offering this amendment.

I know that it has been very easy to dismiss the allegations surrounding what took place with the calling of the FBI to the White House—that it is simply a case of amateur hour. I would like to respectfully disagree with that characterization.

First of all, I do not think they are amateurs. Mr. Nussbaum, as I indicated yesterday, is not an amateur. He was on the House Judiciary Committee staff when I was a freshman Congressman back in 1972–73. He certainly has been exposed to the kinds of allegations that surround the potential of abuse or misuse of the FBI.

Mr. Collingwood is not an amateur at the FBI. So there are serious questions that have to be raised and answered as to what exactly he was doing, to whom was he reporting, and what sort of authority was he being given to carry out these types of consultations and the rewriting of press releases carrying the stamp of approval of the FBI.

I would like to say, Mr. President, that it is serious business when you involve the FBI to ask them to conduct an inquiry or an investigation, and when you persuade the FBI to say, yes, this warrants a criminal investigation.

If you put a stamp on the brow of an individual that he or she is under investigation by the FBI, in many cases that individual's reputation has been ruined by the allegation alone. The public announcement that you are under investigation by the Federal Bureau of Investigation is enough to tarnish the reputations of most, if not all, people. Even if the allegations are subsequently dismissed, and a disclaimer is filed—"We find no evidence that would warrant further investigation"—that gets lost in the fine print in the press the next day.

We are dealing with the careers, the futures, the livelihoods of seven individuals. I think we all have a right to know whether their reputations and livelihoods have been jeopardized by actions taken by certain individuals within the White House.

No one has suggested that President Clinton knew about this. No one is suggesting that this rises to the level of Watergate, where we saw clear attempts to use the FBI to achieve a political objective. We also saw some attempts during the whole Iran-Contra scandal, when allegations were made that the White House tried to use the FBI.

We know the State Department was called upon during the last election to search out the passport record of then candidate Bill Clinton, and all of us reacted with justifiable outrage that that was a misuse of the State Department for that purpose. The individuals involved were, rightly, either called upon to resign or were fired.

Mr. President, I do not think it is enough to say this is amateur hour; that this is simply a case of young, unskilled individuals being given the levers of power and not knowing what levers to pull, or whether it is appropriate to pull them at all.

If they are amateurs, they do not belong there. If they are amateurs, they do not belong there when they are dealing with the futures and integrity and reputations of seven individuals who have spent a considerable amount of time in that position.

I do not know, Senator DOLE does not know, none of us know whether the allegations surrounding these individuals are in fact true; whether there was misappropriation of funds, whether there was any hint of impropriety, whether there was financial gain involved. We know none of this.

But it seems to me that serious questions are raised when those within a position of power call upon the FBI to give credence to their reasons for immediately dismissing these seven individuals.

So I think this is a sound resolution. I hope it will enjoy the unanimous support of our colleagues.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, on behalf of the floor manager of the floor bill, Mr. BOREN, I urge the acceptance of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Kansas [Mr. DOLE].

The amendment (No. 383) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, after consultation with the Republican leader, pursuant to Public Law 93-415, as amended by Public Law 102-586, announces the appointment of James L. Burgess of Kansas to a 1-year term to the Coordinating Council on Juvenile Justice and Delinquency Prevention.

REPRESENTATIVE FRANK'S PROPOSAL CONCERNING GAY MEN AND LESBIANS IN THE ARMED FORCES

Mr. NUNN. Mr. President, I would like to address tonight the proposal put forth recently by Representative BARNEY FRANK concerning the service of gay men and lesbians in the Armed Forces. I commend Representative FRANK for his interest in addressing this issue in a serious, thoughtful manner. I appreciate his recognition that this is not simply a civil rights issue—it is an issue that involves the delicate balance of military necessity and individual rights.

As I understand Representative FRANK'S proposal—and I get this only from the newspaper reports, so I may not be under the correct impression on all of it—he would not allow gay men and lesbians to openly declare their sexual orientation on military bases, but he would not restrict such homosexual declarations or consensual homosexual conduct off base during off duty hours. In other words, Representative FRANK makes a distinction between the type of behavior that would be acceptable on base and the behavior that would be acceptable off base. On military bases and on duty, members of the Armed Forces could not state that they are gay or lesbian, and could not engage in conduct that is presently prohibited between persons of the same sex by the Uniform Code of Military Justice and DOD regulations. Off military bases and off duty, however, these restrictions would no longer apply, according to the way I understand his proposal.

One of the interesting aspects of Representative FRANK's "on base, off base" proposal is that it is more restrictive than the President's original proposal on base and much less restrictive than the President's original proposal off military bases.

Representative FRANK's proposal is more restrictive than the President's position because his proposal incorporates the view that open homosexuality disrupts the unit cohesion that is essential to the success of our Armed Forces.

I want to hasten to add that I know that Representative FRANK does not personally hold this view. I know he personally regards this fear on unit cohesion and homosexuality as an irrational fear.

There are many people, however—including distinguished scholars, lawyers, and military personnel who appeared before our committee—who disagree. They believe that it is rational for members of the Armed Forces—who must frequently serve under conditions that afford minimal personal privacy—to be concerned about the impact on their units of persons who are sexually attracted to persons of the same sex. This does not mean acceptance of a stereotypical view that every gay or lesbian person is a predator or is attracted to every member of the same sex; rather, it is a rational view that the placement of persons of the same sex but different sexual orientation in the same living environment creates the potential for behavior that is disruptive of good order and discipline.

Representative FRANK's proposal for off base declarations is similar to President Clinton's, however, in that it would permit an open statement as to one's sexual orientation.

I personally believe there is no distinction between on base and off base declarations of homosexuality in terms of its adverse impact on unit cohesion.

If a service member, like Lt. Tracy Thorne, announces on "Nightline" that he is gay, that is likely to have just as significant an effect on his unit than a casual statement on base to a fellow officer. If a first sergeant, in a restaurant downtown, mentions to some of his fellow NCO's that he is gay, that is likely to have just as significant an impact as a statement made around a table at the NCO club.

With respect to off base homosexual conduct, Representative FRANK's proposal is far more permissive than President Clinton has ever indicated he is willing to go.

President Clinton has repeatedly stressed that he does not favor any changes in the current rules of conduct for military members, which apply on base and off base. In his January 29 news conference, he said:

> Military life is fundamentally different from civilian society. It necessarily has a different and stricter code of conduct, even a different code of justice. Nonetheless, individuals who are prepared to accept all necessary restrictions on their behavior, many of which would be intolerable in civilian society, should be able to serve their country honorably and well.

The President reiterated his support for the present code of conduct, which applies on base and off base, in his May 14, 1993, press conference. He was asked during the news conference:

> * * * [y]ou used the word 'conduct' as though it were an absolute and easily definable term. Do you believe, one, that homosexuals should be celibate * * * or could they engage in homosexual activity, consenting, on or off base? Or two, should the Uniform Code be allowed to have any sort of difference between its treatment of homosexuals and heterosexuals?

President Clinton responded:

> I support the present code of conduct, and I am waiting for the Pentagon to give me its recommendations.

Just this morning, in an interview on CBS's "This Morning," President Clinton said:

> I have not called for any change in the Uniform Code of Conduct.

There seems to me to be a real contradiction between the President's "open status, but strict conduct" approach and Representative FRANK's "on base, off base" distinction.

The President seems to be saying that openly gay men and lesbians should be allowed to serve in the military, as long as they do not engage in homosexual conduct. In my view, I think it is impossible to draw a line between open status and conduct. The effect on military units of an open declaration of status and actual conduct would be pretty much the same.

In contrast to the President, however, Representative FRANK's proposal recognizes the concern that open homosexuality is incompatible with military service by recognizing gay men and lesbians should not express their sexual orientation on duty and on base.

I repeat—I think he has made it clear—I do not think this is Representative FRANK's own view but this is a compromise proposal he has offered. But then he goes far beyond the President on the conduct issue by saying there should be no regulation off base/off duty conduct.

Representative FRANK has not provided a detailed analysis of how his proposal would work, but I believe that his on base/off base distinction would establish a very undesirable precedent in military law.

One of the most fundamental distinctions between military life and civilian life is that the military's code of conduct—the Uniform Code of Military Justice and related regulations—is not simply a code of employee behavior. It completely regulates a service member's life, 24 hours a day, from the day a person enlists until the day that person is discharged.

While there are some military members whose particular assignment may approximate a civilian job and civilian living conditions, that is not the norm. Military personnel must be available, at all times, for worldwide deployment to a combat environment. Their conduct is subject to the Uniform Code of Military Justice at all times—on base and off base, on duty and off duty. Readiness, unit cohesion, good order, and discipline are not attributes that can be turned on at the base gate and turned off when one leaves.

There is no requirement in military law that the commission of an offense off base have a specific direct and predictable impact on a specific unit. It is sufficient if the behavior, in itself, violates military law.

A good example is the treatment of drug offenses. Throughout the seventies, as civilian jurisdictions decriminalized drug use offenses and declined to prosecute possession of small amounts of drugs, there was considerable pressure on the Armed Forces to take a hands-off approach to off base/off duty use of drugs by members of the armed forces. In a series of cases during the seventies culminating in *United States* v. *Strangstalien*, 7 M.J. 225 (C.M.A. 1979), the Court of Military Appeals indicated that many off base drug offenses were not subject to military jurisdiction. Few who served during that era in the military—or on the Armed Services Committee—will forget the devastating impact on military morale and discipline.

Fortunately, the Court of Military Appeals reversed this trend in *United States* v. *Trottier*, 9 M.J. 337 (C.M.A. 1980), which rejected the concept of an on base/off base distinction. Citing hearings before the Senate Armed Services Committee, the Court noted: "Without the maintenance of a credible armed force, the United States is at a serious military and geopolitical disadvantage. The need is overwhelming to be prepared to field at a moment's notice a fighting force of finely tuned, physically and mentally fit men and women * * *."

The Court specifically rejected the concept that off base restrictions should apply only in time of war: "Surely, in the present day world, considering the state of communication and transportation arts, there is a fine line * * * between time of peace and time of hostilities. The power to raise and support an army and to maintain a navy and the power to declare war are meaningless unless the reliability and efficiency of the force can be sustained in time of peace." The Court also noted the need to deter off base behavior that could have adverse impact on one's fellow servicemembers: "[O]n some occasions a service person who observes his peers using drugs away from a military installation will be induced to emulate their conduct—but without the care to do so off post."

This is not to suggest that the off base use of drugs is identical to off base sexual conduct; rather, the point is that the military prosecutes off base drug offenses even when the amounts are small and even when there is no specific, direct impact on the unit because the behavior off base can potentially affect an individual military member's behavior and his unit's effectiveness.

In *United States* v. *Solorio*, 483 U.S. 435 (1987), a case involving sexual conduct, the Supreme Court rejected not only the on base/off base distinction, but also reversed an earlier Supreme Court decision, *O'Callahan* v. *Parker*, 395 U.S. 258 (1969), which had required the military to prove that an offense was "service-connected" in order to establish court-martial jurisdiction. The case involved a member of the Coast Guard, who lived off base, and who had sexual conduct with children under age 16 who were the dependents of other members of the Coast Guard.

The trial court in Solorio held that there was no military jurisdiction because the offenses occurred off base, off duty, out of uniform, and there was no specific adverse impact on the morale, discipline, or reputation of the unit. The military appellate courts, however, reversed this ruling and the Supreme Court agreed, ruling that court-martial jurisdiction depends solely on the status of the defendant as a member of the Armed Forces, not on the nature or location of the offense.

My point is not that off base sexual behavior with minors is identical with off base homosexual conduct; rather, it is that the Supreme Court has specifically recognized that conduct by a member of the Armed Forces, whenever and wherever it occurs, is an appropriate concern of the military justice system, even when there is no specific showing that the particular conduct had a direct impact on a specific unit.

Mr. President, Representative FRANK's proposal would create an off base safe haven for homosexual conduct that is not available with respect to other offenses under UCMJ. As I noted earlier, off base drug offenses are prosecuted, even when there is no showing of a direct impact on a specific unit. Off base adultery offenses—an offense involving consensual sexual relations between adults—are prosecuted.

The alleged improper conduct by military members at the Tailhook convention took place off base during off duty time. The alleged conduct took place in a private hotel, and much of it was in private rooms within the private hotel. I do not know anyone who argues that this conduct should not be the subject of military jurisdiction just because it occurred off base during off duty time. The Frank proposal, however, appears to exempt off base homosexual conduct by military personnel from the Code of Conduct in the UCMJ.

Under current DoD regulations, a homosexual act "means bodily contact, actively undertaken or passively permitted, between members of the same sex for purpose of satisfying sexual desires." This not only includes sodomy, which can be prosecuted under article 125 of the UCMJ, but also other forms of sexual contact. This conduct, wherever it occurs, not only can result in an administrative discharge, but can be prosecuted under article 134—conduct that is service-discrediting or prejudicial to good order and discipline—under the prohibition against "indecent acts with another."

It is my understanding that Representative FRANK's proposal is intended to discourage the Armed Forces from aggressively employing investigative resources to actively seek out evidence of off base, private conduct.

This is the point on which I agree with Representative FRANK. I agree that it would be desirable for the military services to develop investigative policies that minimize intrusions into behavior that servicemembers seek to keep private. A rigid on base/off base distinction, however, would appear to go well beyond such policy guidance.

There are a number of questions raised by the proposed on base/off-base distinction:

How would it be applied to off base conduct between servicemembers?

Does the proposal permit a servicemember to solicit another member of the same unit off base?

Does the proposal permit a servicemember to engage in sexual conduct with another member of the same unit off base?

What is the impact on the unit when there is an off base homosexual relationship between two members of the unit?

How would it be applied to open conduct even if it is with a civilian which is observed or becomes known by members of a unit?

What is the impact on the unit when a servicemember sees a fellow member involved in a homosexual relationship off base?

What is the impact on the unit when a junior member sees or learns that his or her superior is involved in a homosexual relationship off base?

Homosexual cases which have been prosecuted in recent years involve a wide variety of circumstances and locations, including consensual and nonconsensual cases, on base and off base. If all off base homosexual conduct is deemed permissible, then there would be a dramatic liberalization of the military standards of conduct—far beyond what President Clinton has talked about. Under a standard that exempted off base conduct from military jurisdiction:

A servicemember could solicit another servicemember off base to commit a homosexual act. Even if the un-

willing servicemember reported this to his or her unit commander, the solicitation would be immune from military jurisdiction.

Two servicemembers from the same unit could have an open homosexual relationship which would be immune from military jurisdiction even if well-known to members of the unit.

A first sergeant could have an open homosexual relationship off base, well-known to his fellow NCO's and subordinates, which would be immune to military jurisdiction.

An officer could engage in open sexual conduct off base with a member of the same sex, known to his fellow officers or subordinates, and be immune from military jurisdiction.

A military commander could receive a report that one of his or her subordinates had engaged in a consensual sexual act in violation of State law, but the conduct would not be subject to military jurisdiction .

I do not support the on base/off-base distinction, and I do not believe that President Clinton would support such a dramatic change in the military's Code of Conduct. Nonetheless, I believe that the concept which Representative FRANK has enunciated reflects important concerns about investigative policies. I do not believe we should have sex squads looking for ways to investigate service members' private, consensual behavior.

I have heard concerns expressed that soldiers can or will be punished for activities such as visiting a gay bar, reading a gay magazine, or participating in a gay rights parade. It is my understanding that none of these activities are prohibited by current military law. I recognize that under the limitations on first amendment rights that can be applied in the armed forces, individual commanders can declare specific places off-limits—a prohibition that is frequently applied to locations that discriminate on the basis of race. Likewise, although not frequently used, commanders do have authority to restrict possession of certain forms of literature or participation in certain public political activities. Absent such a restriction, the possession of gay literature or participating in a gay rights march do not constitute military offenses.

I also recognize that there is concern that such activities, and other actions which may raise suspicions about a soldier's sexual behavior, even when not specifically prohibited, may lead to questions about a soldier's sexual behavior. In my judgment, these concerns can generally be addressed by explicitly providing service members with the right to receive a detailed rights warning before any such questioning is initiated, including the privilege against self-incrimination.

I think that is something that our committee and the White House and the Department of Defense—all of us—are going to have to consider together as to how best to carry that out.

It may also be desirable to consider whether guidance should be issued on the investigative relevance of issues which have raised concern in the past, such as presence at gay bars, possession of literature related to gay or lesbian matters, or attendance at gay rights activities. These issues should be considered by the DOD Task Force that has been established by Secretary Aspin at President Clinton's direction. And I hope that they are looking very carefully and will have recommendations on these issues.

What is crucial, in my judgment, is that such guidance be framed in terms of traditional investigative policies, such as establishment of priorities and allocation of resources. It would create intolerable confusion to establish express limitations on investigation of conduct that is relevant to a violation of the Uniform Code of Military Justice.

In summary, Mr. President, the proposal from Representative FRANK recognizes the concern that open homosexuality would have an adverse impact on unit cohesion and military effectiveness. That has been the overwhelming testimony before our committee. However, by permitting homosexual conduct off base, it goes far beyond what President Clinton has talked abut. The President has endorsed the current rules of conduct, which apply on base and off base. The Frank proposal, on the other hand, ignores the serious impact on military units of open, off-base homosexual activity.

In my view, Mr. President, Representative FRANK's proposal is not a compromise between those who want to sustain the current exclusionary policy and the President's "open status, but strict conduct" proposal. It is a compromise between President Clinton's position and those who advocate eliminating all restrictions on consensual homosexual conduct among members of the armed forces. I do not favor this on base—off base distinction.

In closing, I want to commend President Clinton for the tone of his remarks on this issue today on the CBS show "This Morning." In those remarks, President Clinton indicated that he understood that for a great many people in this country, this issue touches on deeply held moral or philosophical beliefs. President Clinton made it clear that any resolution of this debate should not appear to be endorsing any particular lifestyle.

President Clinton also reiterated his view that the military's current Code of Conduct should not be changed. The President's position, as he outlined it this morning, is "if you don't ask and you don't say, and you're not forced to confront it, people should be allowed to serve."

I have not had any discussions with administration officials on the outlines of any proposal on this issue that they may be working on. I understand the Defense Department is winding up their review and will be making their recommendation shortly. I look forward to working with the Defense Department, the President and my colleagues in the Armed Services Commmittee on a satisfactory resolution of this issue in the coming weeks.

I thank the Chair.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

MULTILATERAL APPROACH TO BOSNIA IS CRUCIAL

Mr. PELL. Mr. President, earlier today, the distinguished Republican leader indicated his intention to introduce a bill to lift unilaterally the arms embargo on the former Yugoslavia. I would like to share with my colleagues a somewhat different perspective on this issue.

Last weekend, Secretary of State Christopher and the Foreign Ministers of France, Russia, Spain, and the United Kingdom announced a Joint Action Program to bring coordinated international action to bear on the conflict in Bosnia-Herzegovina. This administration, and many of us in the Congress, are committed to a multilateral approach, not only with regard to Bosnia, but with regard to other foreign policy challenges in the post-cold-war era. Accordingly, I believe it is important to maintain and build upon the cohesion that has been achieved to date.

At least a portion of the Joint Action Program, calling for the rapid establishment of a war crimes tribunal, has already been implemented. On Tuesday, the U.N. Security Council took action to establish such a tribunal to prosecute persons responsible for the heinous crimes committed in the former Yugoslavia since January 1991.

Other parts of the program are still under discussion. Further U.N. resolutions will be necessary before other measures, such as the establishment of safe areas and the sealing of Bosnia's borders, can come into force. There is still a great deal of work to be done in hammering out the details of the Joint Action Program, but Defense Secretary Les Aspin reported yesterday that he had sensed a general receptivity among NATO foreign ministers to the Joint Action Plan as a first step to helping stopping the killing.

Mr. President, the Joint Action Program does make clear that the allies plan to keep open options for new and tougher measures, none of which is prejudged or excluded from consideration. I believe such flexibility is necessary. However, in my view, it is too early to begin considering further options.

While discussion is continuing on the Joint Action Program itself, I believe it is unwise for the Senate to prejudice the outcome by putting other measures on the table.

The Joint Action Program is the product of a major effort of inter-allied cooperation, with the United States playing a pivotal role. Russian participation is also crucial in helping convince the parties that it is in their interest to support the joint action plan.

Achieving consensus on this issue has not and will not be easy. Despite the best diplomatic efforts of Secretary Christopher earlier this month, the Europeans rejected outright the administration's lift-and-strike proposal. Accordingly, I believe it is unwise to revisit the issue of lifting the arms embargo at this point.

Unilateral United States action at this juncture would have repercussions beyond our policy in Bosnia. There may be a certain frustration with our European allies' response to the tragedy in Bosnia. However, I believe the Clinton administration has had to make a tough judgment call on how far the United States can push the Europeans without doing serious and sustainable damage to our transatlantic partnership, and indeed to the entire concept of a multilateral approach to the problems of the post-cold-war world. Moreover, if the United States were to repudiate a U.N. Security Council Resolution by our own independent action, it would set a dangerous precedent that unfriendly states would be sure to exploit.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

NEW PLAN FOR ACTION

Mr. FEINGOLD. Mr. President, as the distinguished chairman of the Foreign Relations Committee has indicated, there is a new plan for action in Bosnia which will come before the U.N. Security Council soon. Unlike past proposals, though, this latest plan, in my view, is only intended to stop the fighting and theoretically postpones action on a peace plan. The plan was conceived in large part by Russian Foreign Minister Andrei Kozyrev. I must say, it seems to me to the worst appeasement of the Serbs and abandonment of the Bosnian Muslims proposed thus far.

The plan calls for several things, as the chairman has pointed out: Sealing the borders of Bosnia to enforce the sanctions against the Bosnian Serbs; securing safe areas for Muslims under seige; using United States air power to counterattacking Serbs in the safe areas, but not to actually protect the Muslims; and to establish a war crimes tribunal.

The joint action statement also warns that aggression against the former Yugoslavia, the Republic of Macedonia, would have grave consequences and that we do not support declarations of independence in Serb-controlled Kosova and encourages support for Vance-Owen.

Mr. President, in all of this, there is no mention of Serb retreat from lands they seized through naked aggression. There is no mention of Bosnian sovereignty over its own country. In the words of President Izetbegovic of Bosnia:

> If the international community is not ready to defend the principles that itself has proclaimed and which it proclaims to be its fundaments, if it is ready to recognize the law of force governing international relations, if it prefers to close its eyes before most ruthless violations of human rights and international law, even more to reward the aggression and genocide, let it then say this openly, both to our and its public. Let it proclaim a new code of behavior by which force will be the first and the last argument. Let it proclaim that the U.N. Charter and all the so carefully and patiently built rules of international law are no longer valid.

Those are the sentiments of the President of Bosnia in response to this latest joint action plan.

And a similar reaction came from press around the world as reported by the RFE/RFL Research Institute, the British BBC picked up from the Croatian service, British editorials using expressions such as Chamberlain and greater Serbs is now a reality.

The Chicago Tribune reports from March, by the Director of the U.S. relief operations in Bosnia to the effect that the safe havens would be ghettos and economically nonviable, requiring a massive effort by the international community to keep them alive.

Finally, the semiofficial Croatian Daily on May 24 condemned the five signatories as being "powerless in trying to confront the violence, crime, genocide, and fascism in Bosnia." That same paper on May 25 says the so-called Washington Five "have opted for greater Serbia as a stabilizing factor in the Balkans."

Now, ironically, this is called a joint action program. In my view, this is not action. This is inaction. And it goes even further in the wrong direction than the Vance-Owen plan did.

I think action should be effective. This plan creates an untenable situation where Serbs will have been appeased and Bosnian Muslims will be cordoned off in a safe area resembling more of a reservation or a detention center or a ghetto than a safe haven. What will a safe haven accomplish? How will it bring about a just peace to Bosnia? How will the allies extricate themselves?

I think action should be appropriate. This plan does not offer a viable plan for peace. It sets as policy—as policy—that Serbian aggression will be rewarded and that those who have been left defenseless will really become wards of the international community.

I think action in this area should be moral. This plan flies in the face of those words that we have heard over and over again in recent months: Never again. Never forget.

It is reminiscent of the 1939 appeasement and it does not address the moral challenges posed by this conflict. I return to the position that I still think is the most effective and appropriate and moral action we can take; and that is, to lift the arms embargo that has forced the Bosnian Muslims to be at such a disadvantage.

President Clinton has apparently recognized the value of this since he has tried to persuade our European allies in recent weeks to support lifting the U.N. arms embargo, but the allies have been intransigent.

My resolution, S. Res. 79, would provide for the lifting of the arms embargo, or requesting that the United Nations do it.

The chairman of the Foreign Relations Committee correctly points out that the Republican leader today introduced a bill that would call for lifting the arms embargo, but it does so by using unilateral U.S. action. It does not take into account the fact that the United Nations must lift the embargo that we participated in placing. So the resolution is different from the bill that the Republican leader has mentioned.

In my view, the arms embargo is crucial. Lifting the arms embargo is crucial because it respects the right to self-defense. It levels the playing field, as Secretary Christopher said a couple of months ago, and thereby could possibly enable true negotiations to proceed. It helps protect Bosnia's right to develop as a nation. And I think it is our best protection against ever having to seriously consider introducing ground troops into this situation from the United States.

Finally, it can assist the peace process because it will let the Serbian aggressors know that there is someone there to counter them should they choose to overwhelm more villages.

So, though there is great controversy in this country over what we should do in Bosnia, I maintain that possible a clear consensus—and if not a clear consensus, at least a significant majority in our Government and our country—now believe that lifting the arms embargo for Bosnia would be a very appropriate next step.

The list of supporters of this action is growing. There are cosponsors of two resolutions in this House which express the sense of the Senate that the arms embargo as it applies to Bosnia should be lifted. The list of those cosponsors includes both the majority leader and the Republican leader, and other distinguished foreign policy leaders, such as Senators DECONCINI, LAUTENBERG, SASSER, and LUGAR.

The distinguished chairman of the European Subcommittee of the Foreign

Relations Committee, Senator BIDEN, has long been an advocate of lifting the arms embargo and advocated it even prior to my joining the Senate and getting involved in the issue myself.

Senator NUNN has said:

The first thing we are going to do for people who are in trouble and being brutalized militarily is that we are going to help them help themselves. We are going to first of all furnish them arms.

Senator LUGAR has said:

Bosnia is in the final stages of dying. I would support the President in lifting the arms embargo against shipping of arms so that Bosnians could defend themselves.

The Republican leader has said:

We need to do more, and doing more would be lifting the arms embargo. That would be the first thing we should do.

Numerous editorials across the country agree. On April 18, the New York Times wrote that:

We should lift the arms embargo against the Bosnian Government so that the Bosnian forces could defend themselves over the longer term.

Former Prime Minister of England Margaret Thatcher has said:

It is totally and utterly wrong to stop people from defending themselves against a highly armed aggressor.

Numerous Jewish groups around this country, who hearken back to their own experience in World War II, have supported the lifting of the arms embargo.

In an open letter to the New York Times, the American Jewish Congress wrote:

At least let us not interfere by preventing Bosnian Muslims from defending themselves and the arms embargo now.

So I would like to take this opportunity to express the hope that this body and this Government will go back to trying to convince our European allies to agree to lift the arms embargo.

I urge the President to redouble his efforts to convince our allies to lift their objection, which is the stumbling block in this situation.

Although I have a tremendous regard for the chairman of our committee, and I respect the remarks he has just made, I cannot agree with his assessment of the plan that has been offered by the joint action. This plan shows, once again, that the international community is a paper tiger on Bosnia. Most dangerously, Slobodan Milosevic has recognized this, and according to a New York Times article on Sunday, he withdrew his original offer to allow international monitors along the Bosnian border to ensure that Serbians were not sending arms to the Bosnian Serbs.

And a New York Times headline screamed:

Exuding Confidence, Serbian Nationalists Act As If War For Bosnia Is Won.

That is where this plan places us.

To conclude, Mr. President, as long as plans are made based upon any kind of promise by Milosevic, as long as they fail to address the real issues—and those real issues are Serb aggression and Bosnian sovereignty—as long as these issues are not addressed, Mr. President, this plan will be outrageously flawed and harmful.

So I call on the President, who has done far more on this issue than the previous administration ever did, to go back to those allies and say it is essential that the arms embargo be lifted now.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. FEINGOLD] yields the floor.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued consideration of the bill.

Mr. BINGAMAN addressed the Chair.

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

AMENDMENT NO. 384

(Purpose: To condemn the intraconstitutional and antidemocratic actions of President Serrano of Guatemala)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. HARKIN, Mr. FORD, Mr. KENNEDY, Mr. JEFFORDS, Mr. DOMENICI, Mr. LEAHY, Mr. KERRY, Mr. MITCHELL, and Mr. NUNN, proposes an amendment numbered 384.

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

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

The amendment follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REGARDING THE EXTRACONSTITUTIONAL ACTIONS OF THE PRESIDENT OF GUATEMALA.

(a) FINDINGS.—The Congress finds that—

(1) Guatemala has had a democratically elected government since 1985;

(2) President Jorge Serrano and the members of the Guatemalan Congress were freely and fairly elected;

(3) on May 25, 1993, President Serrano seized near-dictatorial powers by partially suspending Guatemala's Constitution, dissolving Congress and the Supreme Court, and ruling by decree;

(4) these events are extraconstitutional and antidemocratic and require immediate international attention and action; and

(5) the Organization of American States agreed in Santiago, Chile, in 1991 to convene an emergency meeting of the Hemisphere's foreign ministers in the event of a coup d'etat in a member country in order to consider joint actions to bring about a return to democracy in that country.

(b) POLICY.—The Congress—

(1) condemns the extraconstitutional and antidemocratic actions of President Serrano of Guatemala and considers those actions a serious blow to democracy in Guatemala and a serious threat to democracy in the Hemisphere;

(2) calls on President Serrano to restore immediately the democratically elected Congress and the judiciary and to ensure full respect for internationally recognized human rights;

(3) commends President Clinton for his rapid and decisive response to the situation in Guatemala, in particular his condemnation of President Serrano's actions and his suspension of disbursements of United States assistance;

(4) calls on the President to suspend the United States assistance program to Guatemala, and to seek to delay approval of any international loans for Guatemala, until constitutional government is restored to Guatemala; and

(5) commends the Organization of American States (OAS) for its plan to send a fact-finding mission headed by the Secretary General to Guatemala and for calling a meeting of the foreign ministers of the OAS member countries, to be held within 10 days.

Mr. BINGAMAN. Mr. President, the amendment that I have sent to the desk is one to express the Senate's concern for Tuesday's action by the President of Guatemala, Jorge Serrano, in which he suspended the constitution of that country and dissolved its congress.

This is the same resolution that I introduced yesterday with Senators HARKIN, FORD, KENNEDY, KERRY, LEAHY, DOMENICI, and JEFFORDS as cosponsors. Senator MITCHELL is also a cosponsor of this amendment, as is Senator NUNN.

In a dawn radio and television broadcast on Tuesday, President Serrano announced that he was seizing near dictatorial powers in that country. The heads of Congress and the Supreme Court and the Attorney General were placed under house arrest.

Mr. President, this is very similar to the announcement made by the President of Peru, Alberto Fujimori, a little over a year ago. Those of us who propose this amendment believe that this is a dangerous precedent for a region that has seen a growing number of democracies emerge in the last few years.

I commend President Clinton for his immediate response to the event. The Assistant Secretary for Inter-American Affairs Bernard Aronson telephoned President Serrano Tuesday morning to express strong U.S. opposition to his moves, and he urged him to reverse those actions. President Clinton stated:

This illegitimate course of action threatens to place Guatemala outside the democratic community of nations. We strongly condemn such efforts to resolve Guatemala's problems through nondemocratic means.

Mr. President, I also want to commend the Organization of American States for immediately convening an emergency permanent council meeting to discuss the situation.

Mr. President, I am also alarmed because Tuesday's action coincided with a summit in Guatemala attended by 50

delegates from around the world representing various indigenous people. This summit had been called by the country's own Rigoberta Menchu, who won the Nobel Peace Prize this last year. Apparently, the conference has been suspended.

The Government of Guatemala has been accused by the U.S. State Department of human rights violations, in particular violations on the rights of indigenous people. In fact, Serrano did not officially recognize Rigoberta Menchu's Nobel Prize for her arduous work on behalf of her people. Many of us here in the Senate recently sent Serrano a letter in which we expressed our concerns for the continued violation of human rights in that country. Serrano's actions Tuesday are another example of those violations.

Mr. President, to conclude my statement here, my colleagues and I who propose this amendment want to express our support for the immediate reversal of President Serrano's actions. We believe that the suspension of the constitution and the dissolution of the congress put in jeopardy the political democratization that has occurred in recent years in that region. This process is particularly fragile due to the recent return of peace in El Salvador. Latin America is ill served by this undemocratic action, and we urge the international community to condemn it and the Senate to go on record with a strong statement against it.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DODD. Mr. President, I rise in support of the amendment offered by Senator BINGAMAN, which seeks to condemn the extraconstitutional actions taken by President Jorge Serrano of Guatemala on the morning of Tuesday, May 25, 1993.

It goes without saying that we were all outraged and profoundly disappointed by President Jorge Serrano's decision to dissolve the Guatemalan Congress and Supreme Court and to impose censorship upon the press in an effort to hide his actions from the people of Guatemala. Such actions are unconstitutional, antidemocratic and threaten the future of Guatemala's democracy.

President Serrano's decree has been condemned across the political spectrum in Guatemala. The Guatemala Supreme Court has declared the Serrano decree unconstitutional. The Congress has called upon the Guatemala military to restore constitutional order. Even some of Serrano's own ambassadors have resigned in protest. I have a copy of the resignation letter sent by Edmond Mulet, the Guatemala Ambassador to the United States to President Serrano yesterday. I would like to quote from a portion of that letter, "The problems stated by you (Serrano) as a pretext for the coup, while some may be true, exist in every country in the world, but they are faced and solved in a different way." I would ask unanimous consent that at the conclusion of my remarks that this letter be printed in the RECORD.

Even former Guatemalan military dictator, Gen. Jose Efrain Rios Montt has urged Serrano to restore the constitution, arguing that "far from contributing to peace that you preach so much, the breaking of the constitutional order opens the door to subversive activity."

The international community has spoken out as well. On Tuesday evening, the OAS moved forward expeditiously to delegate a fact-finding mission to travel to Guatemala this weekend, and to call for an emergency meeting of OAS Foreign Ministers to pursue the matter further, as envisioned under the 1991 Santiago Declaration.

The OAS is to be commended for its quick response, but its job is far from over. Tough decisions lie ahead. If President Serrano refuses to reverse his decision, members of the OAS must decide on a course of action that will signal their collective determination that the status quo is not acceptable and that it's not going to be business as usual with respect to Guatemala until full democracy has been restored there.

Regrettably, the international community's lack of decisive action in response to the April 5, 1992, coup by Peru's President, Alberto Fujimori made President Serrano's decision all the more likely. Instead of forcefully rejecting Fujimori's antidemocratic measures as would have likely been the response to a military-led coup, the OAS and the United States, as a member of that body, let President Fujimori off the hook and let the people of Peru down.

Clearly, it is not acceptable to once again sweep dictatorial actions under the rug and go on as though all is well in Guatemala. For if we do, I can promise you that this will not be the last coup of its kind. It will become the policy of choice for governments throughout the region every time ruling democratically becomes difficult.

President Clinton has made support for democracy a cornerstone of his foreign policy. I am hopeful that with his leadership, the OAS can recoup from past mistakes and chart a different course than the one it traveled with respect to Peru. An opportunity has now presented itself to the OAS in the case of Guatemala where it can now demonstrate, through decisive collective action, that the auto coup model of governing is not acceptable to the democratic family of nations in our hemisphere.

I think that the Senate of the United States has an obligation to go on record as well saying a resounding "no" to the actions taken by President Serrano and I urge my colleagues to vote in support of the Bingaman amendment.

I ask unanimous consent that the letter be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, May 26, 1993.

Eng. JORGE ANTONIO SERRANO ELIAS,
Presidential Residence, Guatemala City, Guatemala.

DEAR ENGINEER: Through this letter I come to reiterate to you my ideas that were expressed by telephone yesterday, after you arbitrarily and unconstitutionally swept aside Guatemala's democratic institutions.

I deeply regret and strongly condemn the self coup d'etat by means of which you are setting yourself up in a new dictatorship in our country. Your action demolishes the permanent and daily effort which the great majority of us Guatemalans have been making for several years to build a democratic, pluralist and civilian system; this self coup ruins the chances for a peace agreement with the subversion; it limits and restricts Guatemala's economic development; and, among a great many other negative things, it compromises the independence and the integrity of the National Army which, until now, had been the best guarantee of the institutional system.

There is no justification whatever for such an action, which is a step backwards in our institutional process. The problems stated by you as a pretext for the coup, while some may be true, exist in every country in the world, but they are faced and solved in a different way. You still have time to think things over and reconsider your stand and I am sure that you will find many national groups and sectors willing to help you combat our nation's traditional ills, but through dialogue and the search for consensus.

Your argument that the country was becoming ungovernable because of the opposition group's lack of collaboration is not valid. The broad and unlimited support which we opposition leaders gave you in different fields, especially in the Legislative, ofttimes at the expense of our own credibility, is evidence of the willingness of many sectors other than your own political party, to work for national objectives.

As I stated to you verbally, I cannot continue to represent your government, inasmuch as I cannot be the ambassador of a government which is a de facto product of a coup d'etat. Doing so would violate my most fundamental principles and would be contradictory to the effort and the sacrifice of a whole lifetime devoted to struggling to achieve democracy and the respect for human rights in Guatemala.

Thus, I resign my post as Ambassador of your government to the government of the United States of America, and I am setting myself up in this country as the representative of Guatemala's constitutionality, constituted authority and democracy. I hope that in the next few hours you will have enough conscience and responsibility to calculate the dreadful consequences which this coup d'etat is going to have for our country and will decide to return to the democratic course, which, although difficult and stormy, is the best way to avoid polarization and confrontation.

Sincerely yours,

EDMOND MULET,
Ambassador.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BOREN. Mr. President, I have discussed this matter with the minority leader, and I believe this is agreeable to him.

Mr. COATS. Reserving the right to object, Mr. President. I would like to get some clarification.

Mr. BOREN. Mr. President, this amendment is a surprise to the managers of the bill. Of course, it is on a different subject. I know Members are here wanting to get ahead with the votes tonight so they can go on to other plans and other responsibilities, and I just discussed this with the minority leader.

The Senator from Florida [Mr. GRAHAM] has two amendments, and I ask unanimous consent that the pending Bingaman amendment be set aside and that the Senator from Florida be allowed to offer his amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Reserving the right to object. Mr. President, would that unanimous consent contemplate that after the Graham amendment is offered, we would come back to the pending Bingaman amendment?

The PRESIDING OFFICER. I would advise the Senator from New Mexico that once the Graham amendment is disposed of, we will return to the Bingaman amendment.

Mr. COHEN. Mr. President, reserving the right to object. Could the Senator from Florida give us an idea of how long he expects to take on each of his amendments, and whether he will be asking for rollcall votes on either or both?

Mr. GRAHAM. I would anticipate that the amendments would take less than 30 minutes, maybe less than 15 minutes each; and if they are going to be accepted, I will not ask for a rollcall vote. If there is going to be a controversy, I will ask for a rollcall.

Mr. BOREN. Mr. President, I am advised by the floor leader on the other side of the aisle that there will be some request for a rollcall vote on probably both of these amendments.

Mr. McCONNELL. I say to my friend that I am still trying to learn what the second one is about. Clearly, the first one is going to be objectionable and will require a rollcall vote. One, I believe, requires a prior filing or clearance of direct mail pieces.

Mr. BOREN. One requires a prior filing of direct mail pieces, and another that candidates participate in at least one debate. I guess they would both require rollcall votes. I do not know how long they would be required to debate.

Would the Senator be willing to accept 30 minutes, equally divided, on each amendment to be followed by two back-to-back votes?

Mr. GRAHAM. Yes.

UNANIMOUS-CONSENT AGREEMENT

Mr. BOREN. Mr. President, I ask unanimous consent that the Senator from Florida be recognized to offer two amendments, one on the subject of the registration of direct mail pieces, and the other on the subject of debates by congressional candidates; that the time on each of these amendments be 30 minutes each, equally divided; that upon the conclusion of the discussion of both amendments, there be back-to-back rollcall votes on the adoption of the two amendments, and that no second-degree amendments be in order.

Mr. COATS. Mr. President, reserving the right to object, and I do not intend to object. I am glad we are back on the bill and doing amendments.

However, this Senator was under the very distinct impression, after listening to the majority leader, that we would use the time from 7 o'clock to approximately 8 o'clock to offer amendments relevant to the bill that is on the floor. I have been waiting now for 2 days to make a statement on a nonrelated matter. I do not think I necessarily want to, or should even have the right to, impede this bill against the wishes of the Senate.

However, I was surprised to learn that, very quickly, we were off the bill and we were back in morning business, and now we have an amendment on a totally unrelated matter before us.

I guess my question is: Are we going to stay on this bill and amendments to this bill? If we are not, this Senator is going to seek every opportunity he can to speak on another matter?

Mr. BOREN. If the Senator will yield to me, it was the intention of this Senator to do the Graham amendments earlier, and we would have been prepared to vote on them by this time. I do not know exactly what happened. It was not the intention of this Senator to go to extraneous matters. We will have a discussion here during the debate of the amendments to work that out.

May I inquire of the Senator how much time he wishes to have on another matter and the nature of the matter?

Mr. COATS. Mr. President, I think it will probably take me 15 to 20 minutes. I do not really want to delay the work of the Senate, because I do not enjoy being here at 8:30 any more than anybody else does. In fact, I probably enjoy it less than some. I would like to proceed with whatever procedure we can pursue that would allow us to get home at a decent hour in the evening.

Mr. BOREN. I apologize to the Senator for the inconvenience. It was not in our plans. I think if we can go ahead, we have had a unanimous consent that we can go ahead on the Graham amendment, 30 minutes equally divided, and we will try to press on that. I will try to find out if any other amendments on the bill will be offered tonight. In any event, that will at least get these two votes starting at approximately 9:30.

Mr. COATS. I appreciate the efforts of the floor manager of the bill. I have a statement I would like to make before we recess. So if I can get that in at some point—and I do not know the schedule tomorrow. I am willing to wait until tomorrow if we will be here.

Mr. BOREN. I think we will be here tomorrow. If it is more convenient for the Senator to come in the morning and do that in the morning, fine; otherwise, this Senator would be happy to remain and make sure the Senator has the opportunity tonight.

Mr. COATS. I want to make sure it is convenient for the rest of the Senate. I do not want to necessarily hold anybody here.

Mr. BOREN. Mr. President, I ask the Senator from Florida, is it possible to shorten the time to 20 minutes, equally divided, on each amendment?

Mr. GRAHAM. I believe 10 minutes would be adequate for me to explain my position on each of the amendments. So 20 minutes, equally divided, would be fine.

Mr. BOREN. Mr. President, I revise my unanimous-consent request to ask that on two Graham amendments there be 20 minutes, equally divided, on each and that the vote on or in relation to the two amendments occur by rollcall vote at the end of all of that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I want to make a brief introductory comment, and then I will submit the first of the two amendments.

The focus of the legislation that we have been debating for the past 6 days is to limit the role of money in political campaigns. If the spending limits that are contained in this bill were to have been adopted in 1992, there would have been 148 House candidates and 39 Senate candidates who would have been in excess of the maximum which is provided.

There have been some concerns expressed, Mr. President, that one of the effects of the large amount of money that has been made available has been to increase the level of public interest and knowledge and information about political campaigns, issues and candidates, and therefore, it has contributed to what admittedly, has been a dismal level of voter turnout—that is, without that amount of public information that has been funded by politi-

cal contributions, and through political campaigns, the level of participation would have been even worse.

Therefore, Mr. President, I think it behooves us to look at the other side of this equation; and that is, as we restrict the amount of money that is going to be available for political campaigns, what do we add as a means of increasing the access of the public to good information upon which to make decisions and to become involved and motivated about the political process.

Therefore, Mr. President, I am going to be offering a series of, actually, four amendments—two this evening, and two at a later point—all of which are aimed at attempting to improve the quality of political campaigns.

The first of the amendments is essentially defensive in nature. It intends to inhibit what I think has been a growing abuse, an evil within the political system. The other three, the first of which will be the second I will offer tonight, intends to increase the public's access to quality information upon which to make good judgments. That will be an amendment which will require debates by candidates who accept the incentives and the voluntary spending limits under this legislation.

AMENDMENT NO. 385

(Purpose: To require contemporaneous notice of the mailing of campaign advertising that refers to an opponent)

Mr. GRAHAM. Mr. President, first, let me turn to the first amendment which I now send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 385.

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

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

The amendment is as follows:

At the end of title VII add the following:

SEC. . CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

Title III of FECA, as amended by section ——, is amended by adding at the end the following new section:

"CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT

"SEC. . (a) CANDIDATES.—A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(b) PERSONS OTHER THAN CANDIDATES.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that—

"(1) advocates the election of a particular candidate in an election; and

"(2) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular,

shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.".

Mr. GRAHAM. Mr. President, I believe that political campaigns are a form of public combat. I believe that it is in that field of the contest of ideas and personalities that the public is placed in the position to make a judgment relative to which candidate best represents their views, which candidate can best advance their views as their elected representative.

Unfortunately, that field is not always level and even and gives to the public that opportunity to make a balanced judgment.

There is the opportunity to use stealth, negative advertising which comes in not over the trestle but rather through the post office box in the form of negative mail, mail which is very difficult to know that it is being distributed and then to be able to respond to either on behalf of the candidate or on behalf of others who are in a position to give the public information.

I contrast what is happening in the area of mail with what is increasingly occurring as it relates to television and radio and other open forms of advertising.

In many of our major newspapers, it has now become the practice to critique particularly television ads in the same way that movies would be critiqued. If a candidate overreaches, misrepresents, he is subject to the constraint that that is going to be reported in the newspapers that will cover the same jurisdiction as the television ads.

I believe that has been a very positive development, that the openness with which those ads are now evaluated and where the public is given information upon which to assess how much weight to apply to that ad has contributed to positive political campaigns.

We do not have that opportunity as it relates to direct mail. There is not currently the means by which, first, it is known that such a direct mail campaign has been undertaken, second, to know what the message is, and third, to be able to effectively counteract it either in terms of an opposition candidate counteracting it or the media being able to give a focus of attention toward it.

So, Mr. President, I have offered as the first of the four amendments an amendment which would provide that a candidate or candidate's authorized committee which places in the mail campaign advertisements or any other communication to the general public that directly or indirectly refers to an opponent or opponents in the election shall file an exact copy of the communication with the Commission, the Federal Election Commission, and with the secretary of state in the candidate's State by no later than noon on the day in which the communication is first placed in the mail to the general public.

The same requirement of filing the direct mail with the Commission and with the secretary of state is required of committees, persons who establish an independent campaign which advocates the election of a particular candidate and which directly or indirectly refers to the opponent of that candidate.

Mr. President, the purpose of this amendment is to see that our politics is given the benefit of the sunshine of knowledge of all forms of political communication and that all forms of communication, therefore, are on the battlefield competing with others, that there is no communication which can come in the night, come through the post office slot without the opportunity of knowledge and the ability to respond and the ability of independent observers to comment upon it and place it in context so that the voter can make an informed assessment of how much weight to give to that piece of political communication.

Mr. President, I believe that this is one step in a series of steps that we should take as we both reduce the influence of money and increase the ability of the voter to have access to the best information, information which has been fully disclosed and critiqued and, therefore, be able to render a judgment as to which political candidate, cause, and issue deserves their vote.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. MCCONNELL] is recognized.

MCCONNELL. Mr. President, with regard to the first Graham amendment with reference to requiring the candidates to participate in debates, it could be useful for the Senate to know the Constitution protects both the right to speak freely and the right to refrain from speaking at all.

We begin with the proposition that the right of freedom of thought protected by the first amendment against State action includes both the right to speak freely and the right to refrain from speaking at all.

That was West Virginia State Board of Education versus Barnett. The Government may not enter the political marketplace by forcing individuals to subscribe to, or to advance messages dictated by the Government. Further, the Government is prohibited from requiring citizens who object to a position to effectively endorse that posi-

tion. Mandated speech that a speaker would not otherwise make necessarily alters the contents of that speech.

Mr. President, beyond the constitutional question, I think there is not any question in my mind that the Supreme Court would not allow requiring a candidate to participate in debates, in other words, requiring the candidate to speak when he chose not to speak as a precondition for receiving the public subsidy. I do not think the Court would allow that, but beyond what the Court might or might not allow, there is the practical question that it raises.

Some very outstanding public officials have been poor speakers and not very good at debating. I can remember probably the most famous Senator in the history of my State was a fellow by the name of John Sherman Cooper. He was a very poor speaker. As a matter of fact, some felt that was part of his charm and part of his appeal.

And for us to say to political candidates who exercise the right under the underlying bill to accept public funds that we have to adopt a certain kind of campaign practice, that is, to participate in a debate, as if to fail to participate in a debate is to somehow cheat the voters, raises not only, as I pointed out, serious constitutional questions, but also as a practical matter who is to say that requiring debate is in the best interest of a free and robust discussion of the issues?

Mr. President, that is essentially my argument against Senator GRAHAM's amendment to require candidates who accept public funding to participate in debates. I do not think the Court will allow it. If we do not care about that, I also think it does not make any sense from another point of view, which is that it presumes that all candidates are equally adept at debate and if one is not good at it and seeks to avoid debating his opponent the voters are somehow being cheated about learning what they should learn about the candidate.

Mr. BENNETT. Will the Senator yield?

Mr. MCCONNELL. I yield to the Senator from Utah.

Mr. BENNETT. I would ask the Senator if you have the same concern I do about the Federal Government entering into this field and having to give us definitions.

What constitutes a debate? If the two candidates meet on a street corner and exchange views with a reporter standing nearby, is that a debate? Does that meet the terms? Do they have to appear on television? How about radio? What if the debates takes place in the boardroom of a newspaper covered by the editorial board of the newspaper? Would that constitute a debate?

Does the Senator not agree with me that this is micromanagement to the fare-thee-well in a circumstance that should be normally as freewheeling as possible?

Mr. MCCONNELL. The Senator raises a very important point.

For example, in my race in 1990, I did want to debate. I challenged my opponent to a debate. But I defined a debate as follows: The two candidates and a moderator; not the two candidates and a panel of four reporters.

So the very question about what is or is not a debate that the Senator from Utah raises is a very good question.

What kind of debate would meet the standard of this requirement of the Senator from Florida?

Maybe this is a question that might well be asked of the Senator from Florida, who has proposed this amendment.

I say to the Senator from Utah, in my view the courts are not going to allow this amendment anyway, but even if the courts did allow it, it does raise the very serious question of definition, I would agree.

Mr. BENNETT. I thank the Senator.

Mr. MCCONNELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky yields the floor.

Who yields time?

Mr. GRAHAM. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Florida has 4 minutes and 40 seconds.

Mr. GRAHAM. Mr. President, I have presented the first amendment, which was the amendment, that relates to the mandatory filing, both with the Election Commission and with the secretary of state in your State of mail which is intended to speak of your opponent and therefore making your definition of your opponent available for public scrutiny and comment.

I did not hear any discussion of that amendment. I am reluctant to conclude the debate on this amendment unless someone would care to speak.

Mr. MCCONNELL. I do intend to discuss that amendment. I just have not done it yet.

Mr. GRAHAM. I have no further comments on the first amendment, so I yield the floor.

The PRESIDING OFFICER. Do both sides yield back their time?

Mr. MCCONNELL. Mr. President, I reserve the remainder of my time.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 4 minutes and 25 seconds remaining.

Mr. MCCONNELL. Mr. President, the first observation I would make about the requirement of filing the mail piece in advance is that it is a completely impractical suggestion. It smacks of prior restraint upon the candidate. It seems to me that unduly micromanages and interferes with the conduct of the campaign.

The first amendment implies, if it means nothing else, that we have robust campaigns in this country, freedom of expression, and minimal amount of Government interference in the conduct of campaigns.

Even if it were to be found to be constitutional, which I think is probably unlikely, that you sort of have to profile your speech for approval by some kind of central government agency before you can communicate with the voters in a campaign smacks of big brotherism to me.

We are past 1984. It is 1993. But the thought you would have to sort of preclear your speech with some central government authority to me is completely foreign to the American experience.

I just would say, Mr. President, that even if it were constitutional to kind of preclear your comments, I think it is a completely impractical suggestion.

At the height of the Red scare in this country, some laws were passed in an effort to require registration and disclosure of the procedures of various pamphlets which were deemed to be subversive. The Supreme Court took a very negative view of such requirement, noting that the famous revolutionary piece Common Sense, by Thomas Paine, was originally distributed as an anonymous news pamphlet. Thomas Paine originally distributed it as an anonymous pamphlet.

Direct mail is nothing more than a modern pamphlet. I cannot imagine how the Supreme Court would rule any differently of this issue that it did several decades ago.

Mr. BENNETT. Will the Senator yield?

Mr. MCCONNELL. I yield to my friend from Utah.

Mr. BENNETT. Once again I rise to talk about the practicality of this.

It is to be filed with the secretary of state. What is the secretary of state supposed to do with it? What if the secretary of state decides to run an advertisement commenting on it while the secretary of state of another State decides to put it in the wastebasket?

Should there not be accompanied with this, if we are going to micromanage this point, some direction to the secretary of state?

We are just told it has to be filed with him and then it is left up to his discretion.

It is, in my view—and I would ask the Senator if he would agree—an intrusion into a circumstance that starts us down the road of the first requirement that must then be followed by a second requirement of the explanation, it must then be followed by the third requirement and defining what the second requirement is and ultimately producing a stultifying effect.

Does the Senator not agree?

Mr. MCCONNELL. I could not agree more with the Senator.

I know they seem to be unconstitutional, and if not unconstitutional, they certainly are unworkable and difficult to define. And it is hard to imag-

ine how they could possibly work in a campaign context without totally interfering with the conduct of the kind of robust campaigns that you are entitled to conduct in this country and free to conduct under the first amendment to the Constitution.

So I thank my friend from Utah for his observations. I think he is right on the mark.

The PRESIDING OFFICER. All time of the Senator from Kentucky has expired.

The Senator from Florida has 3 minutes and 8 seconds remaining.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I think the discussion that has just been conducted by the Senator from Kentucky indicates the very utility of this type of a disclosure of what would otherwise have been an unseen, incapable of responding to mail communication. That is, the opportunity to talk about the facts rather than the myth. The amendment I have has absolutely no quality of preclearance or censorship or any involvement in terms of what the language of the communique will be. It solely requires that the communique be filed—filed in two places: With the Federal Elections Commission, and with the secretary of state of the State in which the election is being conducted.

The purpose of this is not to limit a robust campaign, but to allow a robust campaign to occur, with everyone knowing what statements and representations have been made. This leaves it to individuals, the media, individual citizens, to know what is being said—both what is being said over the airwaves, what is being printed on the page, and what is being said by direct mail. And then have an opportunity to have a robust debate about them.

We all are aware of instances in which information which a candidate or his supporters would have been woefully unwilling to have put into a public forum has been distributed through these kinds of hidden direct mail campaigns. This would just make that information fully available, public, capable of being scrutinized, capable of being commented upon. And then having whatever impact it might on the outcome of the election.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. GRAHAM. Yes, the Senator yields.

Mr. MCCONNELL. I ask my friend from Florida, in section (b) of his amendment:

PERSONS OTHER THAN CANDIDATES.—A person other than a candidate or a candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that—(1) advocates the election of a particular candidate in an election; and (2) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any candidate in particular—

It sounds to this Senator like that could also be a letter to the editor.

I was curious as to whether or not that does not sound very much like a letter to the editor to my friend from Florida.

Mr. GRAHAM. It would have to be a statement which is directed towards the general public, meeting two tests: First advocating the election of a particular candidate; and, second, directly or indirectly referring to the opponent. It is the same concept as it relates to an independent organization, that the first paragraph is as it relates to a candidate or the candidate's campaign.

The PRESIDING OFFICER. All time has expired.

The Senator from Florida is recognized to offer a second amendment.

AMENDMENT NO. 386

(Purpose: To make it a condition of eligibility to receive benefits that an eligible Senate candidate agree to participate in debates)

Mr. GRAHAM. Mr. President, I will send to the desk my second amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 386.

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

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

The amendment is as follows:

On page 8, line 2, strike "and".

On page 8, line 4, strike the period and insert "; and".

On page 8, between lines 4 and 5, insert the following:

"(F) the candidate agrees to participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other eligible Senate candidates for the seat sought by the candidate.

On page 28, between lines 9 and 10, insert the following:

(f) FAILURE TO PARTICIPATE IN DEBATE.—If the Commission determines that an eligible Senate candidate failed to participate in a debate as agreed under section 501(c)(1)(F) and was responsible at least in part for the failure, the Commission shall so notify the candidate, and the candidate shall pay an amount equal to the payments and vouchers received under this title.

On page 28, line 10, strike "(f)" and insert "(g)".

On page 28, line 20, strike "(g)" and insert "(h)".

On page 28, line 24, strike "(h)" and insert "(i)".

Mr. GRAHAM. Mr. President, just to conclude, in my time on the second amendment, the discussion on the first amendment, the concluding phrase under both the requirement of filing by candidates and the requirement of filing by persons other than candidates, is that this relates to mail to the general public. It does not apply to mail to a specific individual or entity, such as the Senator from Kentucky had suggested, mail directed to a newspaper which the newspaper might choose to print for broadcast circulation.

If the newspaper prints it for broadcast circulation, you do not need this filing because, by definition, it is in the public domain; therefore it is available for the robust debate that we hope to achieve.

Mr. President, the second amendment goes to the question of, if we are going to be providing public incentives and a form of public financing for candidates, what are the obligations the candidates have towards the public?

I believe the purpose of a political campaign is to develop a relationship between the candidate, hoped-to-be officeholder, and the public, so that when that person, if their desire is fulfilled and they are elected—there will be a sense of responsibility, of what the citizens can expect of their officeholder and what the officerholder has a right to expect of the citizens.

I believe one of the important ways in which that relationship can be established is through the forum of open debates between candidates.

Debates have been an important part of our Nation's political history. We have seen this fall the important role that candidates, standing side by side in a variety of forums, can have in terms of both educating and exciting the public about an election. One of the phenomenal things about the debates in the 1992 Presidential election is the fact that the audience grew throughout the fall. More people watched the last debate than watched the first debate. That, to me, is an indication of the level of growing interest in the campaign, which interest was capped out by a voter turnout which reversed a long series of declining public participation in Presidential elections.

It has been suggested that we are doing something here which is unusual. It might even be unconstitutional. It is against the American tradition.

I point out that on page 128 of the bill we are debating, we make this same requirement of candidates for the office of President and Vice President: That they will be required, as a condition of accepting public financing, to participate in debates.

How can we, as the Congress, say that is an appropriate requirement to impose upon candidates for the Presidency and the Vice Presidency, and yet it is not one that, if we elect to secure the benefits of public incentives and public financing, we should not place upon ourselves? I believe we have every right—we, the American people—to condition the acceptance of public assistance in a campaign with the requirement that candidates engage in

what has been one of the most effective ways of both educating the public and educating the candidate as to the public's desires.

Mr. President, I believe this is another important step, as we reduced the influence of money, that we would increase the opportunities for the American people, through other means, to secure information which will contribute to a robust, intelligent debate; that will facilitate the American people's ability to participate and shape their democracy.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky [Mr. MCCONNELL].

Mr. MCCONNELL. Mr. President, finishing my observations on the previous Graham amendment, the plain reading of the amendment—and we know there are a number of articles in the Washington Post recently indicating the Supreme Court is increasingly disinclined to look at legislative history, but rather at the plain meaning of the language.

I respectfully suggest to the Senator from Florida, as well as to the Members of the Senate, the plain meaning of section (b) of the amendment, first amendment of the Senator from Florida, means that letters to the editor in support of a candidate or in opposition to a candidate that a citizen may send would have to be prefiled with the secretary of state.

Mr. President, I think clearly the Supreme Court would consider that prior restraint; unduly interfering with the conduct of a campaign. And I think the same kind of argument would stand against the second Graham amendment, to compel a candidate, as a condition for accepting public money for a political campaign, to participate in a debate.

I simply repeat what I said earlier. I would not repeat it, by the way, if I thought it would get a quicker vote. But it is my understanding, I say to my colleagues, that some have said they to not want to vote until 9:30 because a number of Senators were off the Hill. If it were up to this Senator we would vote on both of these amendments now.

Since that is not possible, let me point out again the Supreme Court has clearly said that mandating speech that a speaker would not otherwise make necessarily alters the content of the speech.

The Supreme Court clearly has said that you cannot compel somebody to speak or to refrain from speaking. That is what the Graham amendment simply does.

So it seems to this Senator that not only are both Graham amendments impractical, both Graham amendments are in all likelihood unconstitutional.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 7 minutes and 45 seconds.

Mr. MCCONNELL. Mr. President, I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky reserves the reminder of his time. Who yields the floor?

The Senator from Florida is recognized.

Mr. GRAHAM Mr. President, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. Time will be charged to the Senator from Florida, who suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Mr. President, if we are not going to vote until 9:30, it is my hope that we could put these two amendments aside until maybe 9:20, and then immediately in advance of the vote be able to conclude the debate with the time we have remaining. If that is acceptable with the manager on the other side, I ask unanimous consent that these two amendments be put aside until 9:20, at which time the remainder of the time for debate would be available, with a vote on the two amendments commencing at 9:30.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object. I did not hear the request. Could the Chair repeat the unanimous-consent request?

The PRESIDING OFFICER. The unanimous-consent request is to hold these amendments until 9:20.

Mr. MCCONNELL. Mr. President, in order to consult with the Republican leader, I suggest the absence of a quorum.

Mr. GRAHAM. Mr. President, I ask unanimous consent that, during the quorum call, time not be judged against either side.

The PRESIDING OFFICER (Mr. BRYAN). Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Senator from Indiana be recognized to address the Senate for up to 15 minutes; that following the completion of his remarks, there be 10 minutes for debate on the Graham amendments, equally divided between Senator GRAHAM of Florida and Senator MCCONNELL; and that upon the completion or yielding back of time on that debate, the Senate vote on, or in relation to, the Graham amendment No. 385, to be followed immediately, without any intervening action or debate, by a vote on, or in relation to, the Graham amendment No. 386.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement, the Senator from Indiana is recognized for a period of 15 minutes.

FRESH GARLANDS FOR ANCIENT BATTLES

Mr. COATS. Mr. President, it is appropriate that we focus debate on the troublesome situation in Bosnia, and I'm pleased that Members of the Senate have today, even in the middle of the debate on campaign finance reform, continued the efforts to wrestle with the extraordinarily difficult questions related to what role the United States should play in attempting to resolve the issue.

Mr. President, anyone who cares about the Balkans is forced to be an amateur historian, for its people are drunk with history. They search it for bitterness, scar it with crimes and carefully pass its burdens to their children.

In 1389, Serbian knights battled Ottoman Turks on a plain at Kossovo. The Serbs were routed, beginning centuries of Moslem rule. Their leader, Lazar, was executed—beginning a career of martyrdom. The place was called the Field of Black Birds because the bodies of dead Serbs were left to be eaten by them.

In 1988, in anticipation of the 600th anniversary of that battle, Lazar's body was dug from the ground. His coffin was taken on a tour of every village and city of Serbia. Everywhere it went, it was met by huge crowds of wailing mourners dressed in black. In the Balkans, the past has invaded and conquered the present. The offenses of six centuries are as fresh as the first flowers.

"Every Serbian peasant soldier knows what he is fighting for," Journalist John Reed wrote during World War I. "When he was a baby, his mother greeted him, 'hail, little avenger of Kossovo.'"

Historian Robert Kaplan describes a visit to the monument recalling Lazar's defeat:

> I saw . . . a block of grim, blood-colored stone, about 100 feet high, well-socketed on a wind-swept hill overlooking Kossovo. The monument rested on a platform surrounded by bullet-shaped cement towers inscribed with a sword and the numbers "1389–1989." Atop each tower was a fresh laurel wreath.

Fresh laurels for ancient battles. In this part of the world the normal rules

of memory don't apply. Nothing that is lost is ever forgotten. Nothing that is gained is ever abandoned. The peoples of the Balkans are bound in the straitjackets of their past. They suffer from a hemophilia of historical memory. The bleeding will not end.

On every side there is much to mourn, and much to hide. It is easy to find a root for every grievance and a cause for every act of violence. The album of Balkan history might easily be the snapshots of a tourist in hell.

After the Macedonia uprising of 1903, Ottoman Turkish soldiers killed nearly 5,000 civilians. In one village, they reportedly raped 150 women and girls; 50 Ottoman soldiers raped 1 girl before finally killing her. They cut off another girl's hands to take her bracelets. A correspondent from the London Daily News at the scene wrote:

> I will try to tell this story calmly. . . . One must tone the horrors down, for in their nakedness they are unprintable.

During the Balkan wars of 1912 and 1913, a Macedonian bishop ordered the assassination of an opposing politician and had his severed head brought back to the church to be photographed.

Assassination has been a traditional tool of public policy in the region. Archduke Ferdinand was murdered by Bosnian Serbs trained by the Serbian Secret Service, protesting against the annexation of Bosnia by Austria. The Catholic Habsburgs reacted by executing hundreds of innocent Serbian peasants.

In 1928, Serbs began assassinating Croatian members of the Yugoslav Parliament. In 1934, the Serbian King Alexander was killed in an open carriage during a trip to France by a Macedonian assassin hired by Croat separatists.

In World War II, Croats allied with the Nazis executed hundreds of thousands of Serbes, Jews, and Gypsies. Croat fascists in Bosnia killed Serbian orthodox women and children by throwing them off cliffs. Croat Catholic priests tried to force conversions from orthodox Serbs minutes before they were slaughtered. Serbian Chetnicks killed large numbers of Croats in revenge.

In recent months, we've seen Serbians commit systematic rape, and return the practice of ethnic cleansing to Europe. One doctor in a Moslem area recently reported, "We get a lot of children with direct hits in the head from snipers. At that range, it can't be an accident."

A Moslem fighter comments, "The land remembers every one, even the murdered babies who have no names." A Serb fighter explains, "Here, yesterday, someone killed our people, and today we have to live with them? Impossible." Those violent yesterdays stretch to centuries. In the Balkans, the dead do not bury the dead. The dead bury the living.

We hear a lot of comparisons to Vietnam, or to the gulf war or to the religious conflicts of the Middle East. But we don't need historical analogies from other places. The region has more than enough history of its own. It nourished the roots of modern terrorism. It witnessed the rise of clerical fanaticism. Its only periods of modern peace have been when repression prevented violence.

This is one of history's open wounds—its ancient hatreds radicalized by modern ideologies. This is the region America is now asked to help pacify. This is the history we are supposed to change with carrots and sticks, with embargoes and airstrikes, with safe havens or the sacrifice of American soldiers.

The conflicts of the past now yield to the crisis of hour. For the first time, we seem to have an interim policy from the Clinton administration and our allies, or at least some of our allies—the protection of safe havens for fleeing Bosnian Moslems. But, at best, this is a short-term response. Lives will be protected for the moment, on what Bosnian Moslems call reservations. Yet the day that U.N. troops pick up and leave, who doubts that the fighting will return?

Safe havens have a humanitarian motivation, but they will also speed the process of ethnic cleansing. Bosnian Moslems who have not already left their homes will have an additional incentive to move into havens—the incentive of safety. The gains of Bosnian Serbs will be consolidated—which explains their enthusiasm for this plan. Safe havens are, in essence, a grand nonconclusion. They will temporarily freeze the fighting, not end the conflict.

It is welcome news that American ground troops will not be involved at this stage. Who knows how Serb militia and artillery will test the resolve of U.N. troops? Will we see an endless war of sniping and attrition? Is this an endless commitment, with no hope of final resolution?

It is unwelcome news that the President has promised military support in the air. Our pilots may be asked to attack Serb militia forces if they threaten U.N. positions. By this pledge, we are assuming risks with little knowledge where they might lead.

A police action protecting safe havens will stop some short-term suffering—but it will answer few long-term questions. After we purchase a temporary peace for fleeing refugees, what is our eventual goal? On this question, the administration is silent.

Our commitment to small, isolated safe havens cannot be permanent. What will happen next? Will fighting break out between Serbia and Croatia? What are Serbian designs on Kossovo and its Moslem population? Will Bosnian Moslems ever be allowed to return to their homes?

We cannot defend safe havens indefinitely. Indefinite national commitments run head-long into limited national will. Every American death will raise questions with more insistence: What is our goal, and when do we leave?

When it comes to that goal, after all our posturing, we are no closer to finding it. What can we really hope to accomplish in this historical maze which seems to have no exit?

First, we can hope for peaceful negotiations to settle old scores and old conflicts. But this is to hope against hope. Bosnian Serbs believe they bought Bosnian soil with their blood. There is no leverage we can apply against the Bosnian Serbs to force concessions. They hold the land they seek. They would laugh at further threats of force. Victors just beginning to enjoy their spoils are not eager to surrender them.

Second, we can attempt to arm the Bosnian Moslems so they can eventually defend themselves and preserve a balance of power in the region. With safe havens at the center of our policy, this approach does not seem possible. If we arm Bosnian Moslems within the havens we've created, it would invite Serbian attacks on U.N. forces, and require an American response from the air. Under these circumstances, safe havens would be transformed into military bases, from which Moslems could launch operations against the Serbs. We would be joining the fighting as a combatant, and we would surely be drawn to its center.

Arming the Bosnian Moslems as an alternative to safe havens avoids some of these problems. It has the appeal of fairness, helping the underdog in an unbalanced fight. If it works as planned, it may contain Serbian aggression nearer its source and provide leverage for the Moslems at the diplomatic bargaining table.

But arming the Bosnian Moslems raises serious questions as well:

Would lifting the embargo actually sustain the suffering by extending the conflict? Moslems, Serbs, and Croats are all capable of revenge and atrocities when they get down to the business of slaughter. The British Defense Minister has noted, "You could not ensure that arms were only used against Serb combatants." Wouldn't we just be restarting the war on more equal terms?

Would escalating this conflict put humanitarian aid efforts at risk and place peacekeepers in a cross-fire?

If the embargo is lifted, where will Moslems get these arms and what level of military technology will they need to balance the Serbs? Bosnian Serbs already have the remnants of a heavily equipped Yugoslav Army. Bosnian Moslems will need more than small arms to be a credible fighting force. Will America provide more sophisticated weap-

ons? Will we also need to provide military advisers to train the Bosnian Moslems to use them? If America does not provide those arms, who will fill the vacuum?

Is it simply too late for this option? Serbs and Croats already hold much of the territory they want. Would the goal be to funnel enough arms to Bosnian Moslems just to defend the little land they have left, or to reconquer territory they've lost?

If lifting the embargo and siding with the Moslems does not work, will we be creating increased momentum toward American intervention on the ground?

A third policy option is to extend our police action to an invasion, enforcing a new division of the region—rolling back the gains of Serbians and Croats and moving populations from place to place. The goal here is to do something fundamental—something beyond cosmetic change. But the price would be high, and the results uncertain.

History provides an interesting parallel. In 1904, after the Macedonian uprising against Ottoman control was brutally crushed, there was a public outcry. As a result, British Prime Minister Balfour, Czar Nicholas II, and Hapsburg Emperor Franz Josef met to approve a program for Macedonia that involved an international peacekeeping force. Russian, Austrian, French, Italian, and British zones were created, with Germans in charge of inspecting the schools. The plan also divided Macedonia into districts based on ethnic divisions. But the proposed settlement failed. According to one historian, "this provision simply gave rise to further battles between armed groups, each attempting to secure control of a district area."

Does that sound familiar? It is precisely what has happened with the well-intentioned Vance-Owen plan. It has given Serbs and Croats an incentive to stake out the areas they've been assigned and rid them of Moslems by force. One British commander said of recent fighting, "everyone says Vance-Owen is to blame."

Realistic estimates on the number of troops required to impose a peace on Bosnia range to 300,000. They may quickly destroy organized opposition—but disorganized opposition can be deadly as well. These soldiers could easily find themselves in a state of perpetual siege.

The testimony of Lt. Gen. Barry McCaffrey before the Armed Services Committee was sobering,

> You are dealing with 23,000 square miles of a country slightly larger than South Vietnam. It is four times bigger than Northern Ireland, with 200,000 armed people in it.

Even if these military objectives can be achieved, the political objective is far more difficult. Will an international tribunal be able to sit down and undo the crimes of history? Will it overcome, with pen and paper, the legacies of the Ottomans and the Austrians, of Fascists and Communists?

There has been a persistent desire in our century to use social engineering, even to adjust the balance of history. Mr. Vance and Mr. Owen shared a sixth-floor suite in the Palace of Nations in Geneva—the former seat of the League of Nations. It is a place haunted by good intentions and meager results. At Versailles, diplomats attempted to create a new world. They created, instead, the causes of another war. Well-intentioned tinkering in ancient conflicts has no record of success in our time.

What option is left to us?

In the region, at some point, American interests are directly threatened by the spread of the conflict. Continued Serbian aggression to the south could involve Albania, Turkey, and Greece, and compromise the structure of NATO. The President needs to determine that point where American interests are triggered and draw a line, he must define a response if that line is crossed, and exert American leadership to enforce it. He must do these things in consultation with our allies, but without accepting an allied veto. And he must communicate the reason for this commitment to the American people. Once that line is drawn—something that has not been done—it cannot be redefined or changed. American credibility hangs in the balance. Another Clinton bluff would be an American disaster.

In this debate over Bosnia, there is much at stake. Our decisions have broader implications than the Balkans. They shape a vision of American interests and responsibilities around the world. They raise a question as weighty as any we face: When are American casualties justified by American aims?

An age of instant communication brings nightmare images of the world's suffering into every living room. Those images could be broadcast today from Bosnia—but also from Armenia, or ethnic cleansing in Tajikistan, or atrocities in Cambodia, or Ruwanda, or India. There is no shortage of irrational cruelty in the world.

An individual with half a heart demands justice. A government shares that outrage, but has a further responsibility. America is bound by justice—but it is also bound by prudence. It cannot end suffering everywhere, because of limits on its will and power, and the sobering cost in lives of its own soldiers. If America ends suffering anywhere, it must make tragic, conflicted but necessary choices.

What is the content of a prudent American foreign policy?

First, we must be committed to defend vital American interests. This is an open-ended pledge, involving whatever force is necessary to meet the objective. Defense of our territory, freedom of the seas, the defense of our allies, access to resources, stability for trade, the safety of Americans abroad—these are traditional commitments of enduring importance.

Second, there is a different standard for sending troops into conflicts that engage only our moral or humanitarian concerns, not our direct national interests. In these cases, we can support intervention, but only when it does not substantially undermine our broader interests. That means, in general, minimal casualties, clear objectives, and a limited timetable.

When we enter the quicksand of a hopeless and endless humanitarian mission, we squander two things. First, we waste American lives, a burden I will not bear. Second, we squander the will of the American public to intervene in the future—even when such interventions are important to our interests. This is one lesson of Vietnam: It is possible to wound our national confidence along with our national power.

Why is this important? Ironically, it is important because we cannot be isolationists. Changing threats will require America to be more active in the world than in the past. Weapons of mass destruction and ballistic missile technology proliferate. American intervention will be essential to avoid a future of blackmail and sudden suffering. If we compromise that mission with misguided conflicts that undercut our credibility and our national willingness to send troops in other situations, we have done nothing for the cause of peace.

American power, prestige, and will today are unparalleled, but not unlimited. We are required by reality to be selective in our attention to the injustices of the world precisely because, as a superpower, we have great responsibilities that must not be undermined.

We have seen a building pressure to do something dramatic in Bosnia—not only to combat an enemy, but to combat our sense of powerlessness. But there is no heroism in a futile gesture—just American frustration and the death of young soldiers .

When our interests are clear, thousands of casualties may not be too high a price. When our goals are uncertain, one death is too many. This is not weakness. It is the careful defense of American power and will, a responsible concern for America's Armed Forces, and a healthy respect for the complexities of history.

Apart from the substance of this debate, we are learning there are ways to compromise our influence that have little to do with Bosnia. They have everything to do with an administration that does not seem to know its mind or know the world.

In the last few months, President Clinton has had a very expensive tutorial on foreign affairs. He promised a

policy in Bosnia with a beginning, a middle, and an end. The beginning was utter confusion, blustering, and then retreat. The middle is a policy of safe havens that accepts a defeat and calls it peace. The end is nowhere in sight.

This is on the job training—and it is dangerous. America is rapidly spending its diplomatic capital while President Clinton learns the business of international politics. In the process, two disturbing signals have been sent.

The first signal went to our allies. Just a few weeks ago, President Clinton challenged Europeans to join the United States "quickly and decisively" in taking tougher measures against the Bosnian Serbs. Our Secretary of State flew to Europe to get approval for military steps. But the expectations they purposely raised were undercut, along with American credibility. It looked to Europe like the charge of the lightweight brigade.

The New York Times reported, "The reason Mr. Christopher has so little room to maneuver, officials said, is that Mr. Clinton remained uncertain of his own goals and wanted to keep the maximum flexibility should he decide to amend or abandon his plan." A senior British official commented, "Frankly, he didn't do a very good job of presenting his case. At times, we weren't even sure what his case was." Newsweek reported, "According to allied sources, Christopher stunned his listeners by pressing a vague plan."

Even administration officials were concerned. One commented, "it's not surprising that the Bosnian Serbs concluded we were bluffing * * * We either should have had our ducks in a row before Chris left, or he should have stayed home and hid behind his poker face. As it is, we looked like beggars."

Secretary of Defense Aspin is fond of saying about Bosnia, "All options are bad, some are worse." Among the worst options is the one the President took: To threaten and then surrender.

The explanation of one Clinton advisor was deeply disturbing,

> The President's created a political problem for himself, so he's seeking to get out of it politically, with tactics that have the look and feel of real, muscular action. That's the game now. The morality rhetoric—the Holocaust analogy and all that—will of course continue as the President rallies the country. But as the underlying reason for action, morality takes a back seat to politics.

Issues of peace and war are not just some political game, to be shaped with the message of the week and the poll of the day. The hedging pledges of the campaign trail are not adequate to the defense of American interests and American credibility. President Clinton is quickly finding that when you don't know where you are sailing no wind is favorable.

The second signal was sent to the rest of us. The signal of a President who actually complained how much time he had to spend on international affairs. The signal of a President who made military policy through trial and error. The signal of a President whose vacillations gave strength to our opponents and pause to our friends. These signals have raised a serious concern: Is the foreign policy of the United States in competent hands? It is too early to give an answer. It is too late to avoid the question.

The Balkans are a region where the hand of history is heavy—and there is one analogy of history I can't help but draw. I visited the marines in Beirut following the death of 237 United States servicemen in a terrorist bombing. Those young marines were sent to heal another ethnic and religious conflict, with little specific direction. They were sent out of compassion. They were sent for the highest of motives. And they were sent to their death without good reason. We saw the anguish of innocent people in hopeless conflict, and did nothing but add our suffering to their own.

Gen. John Vessey summarized the lesson of Lebanon which should be engraved on a monument to their sacrifice. "Don't get small units caught between the forces of history."

I have called the parents of sons and daughters from my State who died in service to their country. It is among the hardest things I've ever done. In part, we in the Senate bear the burden of our Nation's choice between war and peace. And that burden is heavier than the weight of good intentions.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. MCCONNELL. Mr. President, briefly, as we grind to the end of a long day, with regard to the two Graham amendments, the first one would require citizens to file not only with the Federal Election Commission but also with the secretary of state of their State any communication in support of or in opposition to a candidate. I think Senators should know before casting this vote that under the plan meaning of this amendment, this would clearly cover letters to the editor on behalf of or in opposition to a candidate.

If this person failed to register with the FEC, or the secretary of state, they could, under the amendment, get a $5,000 civil penalty. If a grandmother mails a letter to the editor in support of or in opposition to a candidate and fails to file with the FEC and the secretary of state in their own State, she could conceivable get a $5,000 civil penalty. It also would cover a communication, presumably, through the mail by, say, a union leader, to his friends in the neighborhood, or to any other group defined as being in the general public.

In short, this not only raises serious constitutional questions but also is totally micromangement of campaigns.

With regard to the other Graham amendment requiring debates, what Senator GRAHAM is saying, in effect, with that amendment is that all eligible Senate candidates receiving public funding have to participate in a debate.

That means that Senate candidates across America will have to debate every fringe candidate, as well as their opponent of the major party, who qualifies for Federal funds. In short, not only does it make a candidate participate in debates when he might choose not to, he might have to debate every fringe candidate who also may be stuck with this.

I hope both of these ill-advised amendments will be defeated.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, as I said when we commenced this debate, the essential purpose of the legislation before us is to reduce the role of money in political campaigns. I support that.

I believe that the limitation on spending is the central provision of this legislation. But I think there is some credence to the argument that if you are going to limit spending, what is going to be done on the other side of the equation to enhance the quality of public information, so that the public, now with less of the information that is being paid for by these enormous campaign expenditures, will have some other access to, hopefully, better information. It is to that end that these two amendments are offered.

The first is essentially defensive. It says that we should treat direct mail—mail which is sent to the general public—in much the same way that increasingly we are treating broadcast communication to the general public. And that is, let us make it available. We do not censor it. We do not have any free clearance. We just make sure that it is available and that everyone knows about it, so that other candidates can comment on it, can correct it if it is in error, so that third parties, such as the media, can comment on it and bring to the public's attention the context.

This has had, I suggest, a very purifying effect as it relates particularly to television advertisement, that there has been external comment on campaign ads. And it has caused those ads to become less likely to hedge the truth, less likely to launch unsubstantiated attacks against an opponent. We do not have that opportunity today with direct mail.

This amendment would make it available by requiring that direct mail be filed in a public place on the same day that it is mailed to the general public.

The second amendment, Mr. President, is offensive. It says if you are going to accept public money, which is a voluntary act—but if you agree to accept it—you ought to present yourself to the public in at least one public debate with your opponent.

Mr. President, debates have been an important part of the American political tradition since our beginning. We saw last fall the positive effect that debates could have in terms of energizing the public toward candidates and increasing the level of voter participation.

We are requiring in this very legislation that debates become an obligation of Presidential and Vice Presidential candidates who accept public funds. How can we go back to our constituents and say, "We required the President and the Vice President to speak to you in debates, but we were unwilling to apply the same standard to ourselves," when we have accepted public funding for our campaign?

Mr. President, I believe that this legislation that we have before us takes a significant step in terms of reducing the invidious impact of too much money in political campaigns. Now, if we can complement that progress by providing that there will be greater public knowledge of the information and the advocacy that comes to the public in ways that would otherwise be undisclosed, particularly through direct mail, and the requirement that candidates stand up before the voters and present themselves, be subjected to the kind of analysis that comes in a candidate-to-candidate debate, I believe that we will have made a significant step forward in terms of what the people have a right to expect from their democratic political process.

Mr. President, I urge the adoption of both of these amendments.

The PRESIDING OFFICER. The Senator from Kentucky is recognized. I advise there are 35 seconds remaining under the control of the Senator from Oklahoma.

Mr. FORD. I might have that 35 seconds in order to adopt the adjournment resolution.

ADJOURNMENT OF THE TWO HOUSES OVER THE MEMORIAL DAY HOLIDAY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of House Concurrent Resolution 105, the adjournment resolution.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 105) providing for an adjournment of the House from the legislative day of Thursday, May 27, 1993 to Tuesday, June 8, 1993, and an adjournment or recess of the Senate from Friday, May 28, 1993, until Monday, June 7, 1993.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 105) was agreed to, as follows:

H. CON. RES. 105

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, May 27, 1993, it stand adjourned until noon on Tuesday, June 8, 1993, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, May 28, 1993, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until noon, or until such time as may be specified by the majority leader or his designee in the motion to adjourn or recess, on Monday, June 7, 1993, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 385 AND AMENDMENT NO. 386

Mr. GRAHAM. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on the two pending amendments.

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

Mr. GRAHAM. Mr. President, I ask for the yeas and nays on each of the amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 385, offered by the Senator from Florida [Mr. GRAHAM].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Nebraska [Mr. EXON], the Senator from Alabama [Mr. HEFLIN], and the Senator from Texas [Mr. KRUEGER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—47

Akaka	Feinstein	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boren	Harkin	Nunn
Boxer	Johnston	Pell
Bradley	Kennedy	Pryor
Breaux	Kerry	Reid
Bryan	Kohl	Riegle
Bumpers	Lautenberg	Robb
Byrd	Leahy	Rockefeller
Campbell	Levin	Sarbanes
Conrad	Lieberman	Sasser
Daschle	Mathews	Simon
Dodd	Metzenbaum	Wellstone
Dorgan	Mikulski	Wofford
Feingold	Mitchell	

NAYS—45

Bennett	Durenberger	Lott
Bond	Faircloth	Lugar
Brown	Ford	Mack
Burns	Gorton	McConnell
Chafee	Gramm	Nickles
Coats	Grassley	Packwood
Cochran	Gregg	Pressler
Cohen	Hatch	Roth
Coverdell	Hatfield	Shelby
Craig	Hollings	Simpson
D'Amato	Inouye	Smith
Danforth	Jeffords	Stevens
DeConcini	Kassebaum	Thurmond
Dole	Kempthorne	Wallop
Domenici	Kerrey	Warner

NOT VOTING—8

Baucus	Helms	Murkowski
Exon	Krueger	Specter
Heflin	McCain	

So the amendment (No. 385) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 386

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 386. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Nebraska [Mr. EXON], the Senator from Alabama [Mr. HEFLIN],

and the Senator from Texas [Mr. KRUEGER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 42, nays 50, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—42

Biden	Ford	Moynihan
Bradley	Gorton	Murray
Breaux	Graham	Nickles
Brown	Jeffords	Nunn
Bryan	Kennedy	Pell
Byrd	Kerry	Reid
Cohen	Kohl	Riegle
Conrad	Lautenberg	Robb
Daschle	Leahy	Rockefeller
DeConcini	Levin	Sarbanes
Dorgan	Lieberman	Simon
Durenberger	Mikulski	Warner
Feingold	Mitchell	Wellstone
Feinstein	Moseley-Braun	Wofford

NAYS—50

Akaka	Dole	Lugar
Bennett	Domenici	Mack
Bingaman	Faircloth	Mathews
Bond	Glenn	McConnell
Boren	Gramm	Metzenbaum
Boxer	Grassley	Packwood
Bumpers	Gregg	Pressler
Burns	Harkin	Pryor
Campbell	Hatch	Roth
Chafee	Hatfield	Sasser
Coats	Hollings	Shelby
Cochran	Inouye	Simpson
Coverdell	Johnston	Smith
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thurmond
Danforth	Kerrey	Wallop
Dodd	Lott	

NOT VOTING—8

Baucus	Helms	Murkowski
Exon	Krueger	Specter
Heflin	McCain	

So the amendment (No. 386) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to address the Senate as if in morning business for 7 minutes.

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

POLITICIZATION OF THE FBI

Mr. GRASSLEY. Mr. President, the White House travel office fiasco is an ethical breach of major significance.

Out of the Watergate scandal, this country learned that the White House must scrupulously avoid political interference with the Justice Department.

At her confirmation hearings, Attorney General Reno assured the Senate Judiciary Committee that the Department's independence would be guarded. In the travel scandal, the White House on several occasions deliberately broke the Department's envelope of independence. First, before any audit occurred, a deputy White House counsel who is a former law partner of Hillary Rodham Clinton, called the Deputy Assistant Director of the FBI to voice concerns about the travel office.

Second, FBI personnel met with White House staff before the seven travel office employees were fired.

The third improper contact came when Clinton advisers summoned an FBI official to what they concede was a political damage control strategy session after news of the firings broke. The purpose of this meeting was to find a way to show that the firings were not the result of preplanned cronyism.

At this meeting, the White House blatantly used the FBI for political purposes. It asked the FBI to draft a statement to back up its claim that the employees were fired for possible criminal violations.

Its virtue already seriously compromised by this point, the FBI agreed. Thinking that the statement would be private, the FBI confirmed the pendency of a criminal investigation into the affairs of the travel office.

Normally, the FBI does not confirm the existence of a criminal investigation. Adding insult to injury, the White House used the FBI statement itself as damage control suggesting that suspected criminal activities formed the basis for the firings, I can only hope that the public release of the statement does not compromise the investigation of the travel office.

Mr. President, in the 1970's Congress passed legislation that was designed to ensure the independence of the FBI. The Director was given a fixed term. He could be fired only for cause. The White House's recent actions represent the most serious political interference with the FBI not only since that statute was enacted, but since Richard Nixon asked the FBI to back off from investigating Watergate.

It may be that in Little Rock, the standard practice when there is a political problem is to have a staff member call somebody to fix it. Since Watergate, we do not do business that way in Washington. There are established channels. There are strict separations.

And there are the administrations's own rules.

Monday, Deputy Attorney General nominee Heymann provided a promised written policy on what contact would be allowed to take place between the White House and the Justice Department. The only people at Justice who could be contacted by the White House were the Attorney General, and Deputy and Associate Attorneys General. The ink on that policy was not even dry when the story broke of the Clinton administration's use of the FBI for political purposes. Perhaps we should insist on logging all calls between the White House and the Justice Department. Maybe we should say that only the President among White House officials shall be allowed to contact the Justice Department.

Equally disturbing is the role of Attorney General Reno in all this: No role at all. She was not informed that the White House asked the FBI to review the travel office.

She was not shown the statement that the White House drafted for the FBI. This following on the heels of the White House dealing with the FBI's handling of the Waco incident through Webb Hubbell, not through the Attorney General. At least in that situation, General Reno was allowed to hear one end of a telephone conversation. In this instance, she was completely bypassed. Who is running the Justice Department.

Attorney General Reno should appoint a special counsel to investigate. And the President must make a decision immediately on whether to retain Judge Sessions as head of the FBI. The report issued by the Office of Public Integrity was issued more than 4 months ago. Since then, the administration has been deliberately vague about its plans for Judge Sessions.

As a consequence, the Director and other FBI officials are in the position of acceding to administration requests in hopes of keeping their jobs. This situation makes the FBI at this time exceptionally susceptible to the political interference of the White House.

President Clinton must now make a decision. Either Judge Sessions must be publicly retained or a successor of the highest probity and competence must be named immediately. Perhaps given the administration's sorry record on dealing with the FBI to serve its own selfish purposes, Judge Sessions should be retained to avoid all appearances of improper influence.

Mr. President, President Clinton has been attacked for violating all sorts of campaign promises. The American people may conclude that changing circumstances justify changing position on some of these promises.

But the President's promise that this administration would hold itself to the highest ever ethical standards cannot be violated. The travel scandal shatters this administration's credibility on ethics. Over a period of 70 years, the

FBI has developed a sterling reputation. The use of the FBI as a good housekeeping seal of approval available for political damage control threatens to destroy all that. To paraphrase Judy Garland: President Clinton, I do not think you are in Arkansas any more.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I wonder if the majority leader would indicate what the program will be for tomorrow and what is the pending amendment.

Mr. MITCHELL. Mr. President, it is my understanding that the pending amendment is the Bingaman amendment. And I ask the Chair if that is correct.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Mr. President, I believe it is the manager's intention to ask Senator BINGAMAN to lay his amendment aside tomorrow.

Senator DECONCINI has indicated he would be prepared to offer an amendment, the subject of which I believe is lowering the spending caps in the bill.

Senator GRAHAM of Florida has indicated that he has two amendments that he is prepared to offer. I do not know the subject matter of those amendments. I inquire of the manager if he knows the subject matter of these amendments.

Mr. BOREN. Mr. President, the subject matter of one is the publication by States with Federal assistance of informational booklets about elections; the other is States that are certified to mandate the same provisions as the campaign finance reform bill. They would then be certified, and candidates from those States would be qualified for the lowest unit rate for broadcast, as Federal candidates would be qualified under the bill.

That is the subject matter of the two Graham amendments, and then the DeConcini amendment is already described.

Mr. DOLE. Mr. President, I wonder, are we going to rotate amendments or are the Democrats going to have all the amendments? We have today spent 3 hours and 23 minutes on the Kerry amendment, from 3:15 to 6:38; then from about 8 o'clock until after 10, we were on two Graham amendments.

I think there were two Republican amendments in there that were accepted in about 15 or 20 minutes.

Is there going to be one amendment there, or if there is objection to setting aside the Bingaman amendment, will that be disposed of?

Mr. MITCHELL. Mr. President, if I might respond, this is, of course, the fifth day we have been on the bill. Amendments were in order throughout the third, fourth, and fifth days, and any Senator, Republican or Democrat, has had 3 days during which to offer an amendment. If any have chosen not to do so, for reasons of their own, perhaps it was with respect to the preparation of the amendment.

There has been no desire or action on the part of the managers, to my knowledge, to preclude anyone from offering amendments. Further, I am advised that part of the period of time to which the distinguished Republican leader has just referred, we were asked to protect some Senators who were involved in interviews at the time. We did so, so that there would be no disruption to their schedules.

Mr. DOLE. Could we find out how long the majority leader will be in session tomorrow?

Mr. MITCHELL. Mr. President, over a month ago, I wrote to every Senator and stated that we would attempt to have no votes on Fridays after 3 p.m. I stated publicly on several occasions during this week that I expected that we would be in session with votes on Friday. And my expectation, my hope, is that we could complete action on the three amendments to which I have just referred in a very short period of time.

I believe Senator GRAMM indicated he would want no more than 30 minutes on his amendment, and Senator DECONCINI an hour.

If there are other amendments offered by Republican Senators, we would take a short period of time. My hope is we could complete action well prior to the 3 p.m. time which I previously stated both in writing and orally.

Mr. DOLE. We are not prepared to give any time agreement on any amendment. We are not prepared to set aside the Bingaman amendment. We will object to setting aside the Bingaman amendment.

Mr. MITCHELL. I thank the Senator for notifying me of that. Will the Senator be prepared then to permit the vote on the Bingaman amendment.

Mr. DOLE. No. The problem is, if the Bingaman amendment is accepted or adopted, we have an amendment on China MFN on this side, and we are trying to accommodate the Senator from Oklahoma by not getting into foreign policy amendments on this bill.

And the opponent of the Bingaman amendment, I can find out tomorrow morning what Senator HELMS wishes to do. I know he is not prepared to let the amendment go on a voice vote. There was some effort to work out some accommodation. That has not been done yet.

If that is adopted, then the Senator from Maine [Mr. COHEN] would like to offer an amendment on China MFN.

Mr. MITCHELL. So the Senator from Maine is certainly free to offer an amendment.

May I suggest to my colleague that perhaps after we dispose of the DeConcini amendment—we can get an understanding to dispose of the DeConcini and Graham amendments. Senator COHEN could offer his amendment, and anybody else could offer their amendments if they want.

That would appear to be the most sufficient use of our time to enable us to complete action on amendments that are relevant to the bill, and in a relatively short period of time, and then proceed to other matters.

May I inquire if that would be agreeable to the distinguished Republican leader?

Mr. DOLE. Let me check. There is a call in to Senator HELMS.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Vermont.

ORDER OF PROCEDURE

Mr. COATS. I ask unanimous consent to proceed for a period in morning business for not more than 20 minutes.

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

The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 1057 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Mr. President, I appreciate the time, I realize it is late.

I yield the floor.

The PRESIDING OFFICER (Mr. MATHEWS). Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Wellstone amendment No. 368, which was previously agreed to, be further modified by striking lines 6 to 8 on page 4 of the amendment.

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

MORNING BUSINESS

JOAN TURNER, DEDICATED CIVIL SERVANT

Mr. SHELBY. Mr. President, I would like to pay tribute today to an outstanding public servant, Mrs. Joan J. Turner.

Mrs. Turner is retiring in June after a 40-year tenure with the Department of Defense. Mrs. Turner began her professional life with the military in 1953 at the Department of the Navy. Her career has been marked by an exemplary work record—a record that has been recognized time and time again by her employer, as is evidenced by the numerous awards and citations which bear her name. Mrs. Turner is also a recipient of the prestigious Exceptional Civilian Service Award, which, as its name suggests, salutes those individuals whose dedication and commitment make them invaluable in the workplace.

Perhaps one of Mrs. Turner's most outstanding accomplishments is the rank she achieved in the Defense Investigative Service. Joan Turner, as regional director for the Southeast, monitors the security practices and programs of defense contractors in Alabama and eight other Southern States. It is Joan Turner's responsibility to make certain that companies working on classified Government contracts are adhering to the regulations and requirements that protect such highly sensitive information. In this capacity, she has helped numerous companies prevent inadvertent breaches of security. Her work has helped to keep this country a safer place. In addition, as one of the highest ranking women in the Defense Investigative Service, Joan Turner has become a role model for young women who want to build a career with the Government.

Joan Turner's professional accomplishments are many. But her dedication and her commitment can just as easily be found in her roles as wife, mother, and grandmother.

On June 1, 1993, this inspiring career comes to an end. And while this is a sad day for the many people who work with and count on Joan at the Defense Investigative Service and for the many friends she has made during her 40 years with the Government, it is also a happy day. I know I join Joan's friends and family in urging her to sit back, for once, and relax. A lifetime of hard work has its rewards and Joan Turner has certainly earned them.

Mrs. Turner will always have the grateful thanks and recognition of her country for a job well done.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as anyone even remotely familiar with the U.S. Constitution knows, no President can spend a dime of Federal tax money that has not first been approved by Congress, both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declared that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the Constitutional duty of Congress to control Federal spending. Congress has failed miserably for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,289,997,991,055.52 as of the close of business on Tuesday, May 25. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share in $16,701.76.

RESPONDING TO EMERGENCY AIRCRAFT LANDING

Mr. MURKOWSKI. Mr. President, today I rise to congratulate and commend the men and women of the Air Force, Navy, Army, and Coast Guard who responded to an in-flight emergency suffered by China Eastern Airlines flight 563—and MD–11 airliner en route to Los Angeles over the North Pacific.

The emergency occurred when the unintended deployment of the aircraft's leading edge wing slats forced the aircraft into a series of three rapid descents. Passengers who were not wearing seatbelts were alternatively slammed against the ceiling and floor as the pilot fought to regain control.

Sadly, 157 passengers were injured in that emergency—two fatally. But the situation would have been far worse if not for the efforts of the Alaskan military and Coast Guard forces who responded with an exceptional degree of skill and resourcefulness in evacuating and caring for the critically wounded.

Imagine yourself as the only doctor on a remote Air Force Base in the Aleutian Islands, being awakened in the middle of the night to be told that a stricken airliner carrying more than 260 people—with many injured—was inbound for an emergency landing. This was the situation faced by Capt. Laura Towne and her staff of three medical technicians on the morning of April 6. It was to turn out to be a very long day.

One of the best descriptions of the events as they unfolded that day on Shemya were contained in an article in the April 23 issue of the Sourdough Sentinel. I ask unanimous consent that the article be inserted at this point in my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHEMYA AFB, COMMUNITY RESPONDS TO EMERGENCY AIRCRAFT LANDING

(By TSgt. Kenneth A. Slininger and Sgt. William E. Adams)

(EDITOR'S NOTE: Shemya AFB handled the evacuation of more than 155 injured passengers from a China Eastern airliner that made an emergency landing there April 6. The injured were medevaced by the island community to Elmendorf, where they were received and went onto local hospitals for treatment. While Elmendorf received extensive local media coverage of their part in the evacuation, Shemya received little. The *Sourdough Sentinel* takes this opportunity to present the story of how a remote base nicknamed "the rock" some 1,500 miles out in the Bering Sea, awoke in the middle of the night to handle a mass casualty situation out of proportion to the small base's facilities. Here is their story.)

The air traffic control tower at Shemya is usually a quiet place around two in the morning. But on April 6, the tower became a hub of what was to become a very busy day.

At 1:46 a.m. MSgt. Paul Arbogast overheard a conversation between Honolulu and Anchorage air controllers about an aircraft with problems. The chief control tower operator said the decision was made quickly to divert the Los Angeles bound MD–11 China Eastern Flight 563 to Shemya. The airliner declared an inflight emergency at 1:57 a.m. and reported 30 injured and one seriously injured of the more than 260 people on board. It was reported the airliner had experienced severe turbulence.

From that point on, the isolated island community near the end of the Aleutian Island chain rapidly moved into action. Sgt. James R. Shelton at the fire department communications center was one of the first to be notified of the emergency by the control tower. He immediately put the fire department into motion by advising his acting fire chief, MSgt. Charles L. Wheeler, who in turn started a recall of all base firefighters.

Within a half an hour, the entire base was mobilized and preparing to receive the injured and passengers, many of whom could speak little or no English. Col. David E. Storey, 673rd Air Base Group commander at Shemya directed notification of Elmendorf's command post and Adak Naval Station for the possibility of medical evacuation and assistance.

The island's only doctor, Capt. Laura Towne, and three medical technicians, TSgt. Rene Lyles and Staff Sergeants Carl Harvey and Donna Nix swiftly set up a small medical aid station equipped with one critical care room and another three rooms for the 30 reported injuries.

When the Chinese airliner was on final approach, air traffic controller TSgt. Mario Ricoma recalled his attempts to get information on the plane's and passenger's condition from the pilot, "He wouldn't give us a real idea of the problem, we tried to find out if the plane was damaged and what type of injuries the passengers had, he just wanted to get on the ground."

Once the airliner safely touched down at 3:29 a.m., Shemya's medical, fire department and security people boarded the plane to evaluate the situation. "It was a shock to see the inside after seeing the outside, it got worse as we went further into the back," said Sgt. Greg Caldwell, the first firefighter to enter the plane.

"The people started to clap and cheer when we first entered the plane," added rescue crew chief Sgt. Robert Shipman.

Doctor Towne started immediate triage of the passengers and had those without injuries removed from the plane, so there was more room to work on the injuries.

The overall evacuation of passengers took three hours due to the severe destruction of the cabin area, closeness of seating and the discovery of five times more injured than first reported. "People were all over the place, in the aisles, wedged between seats. I'd never seen anything like it," said Lyles.

"Everything we had been trained to do (as medical technicians) was put to use in one way or another," said Nix.

Once the injured had been readied for transportation by Shemya's medical team and fire department, they were moved to hangar 6. Owned by Det. 1, 55th Operations Group, an Air Combat Command tenant unit, the hangar was hastily prepared for triaging and passenger comfort.

After finding more than 155 injured people and one fatality, Colonel Storey asked for medical and transportation help from the Adak NAS commander, Capt. E.A. Caldwell, less than a half an hour after the airliner's landing. The Navy dispatched a P-3 aircraft with three doctors, several medical technicians and much needed medical supplies.

Meanwhile, back on the island, Det. 1, 55th OG, commanded by Lt. Col. Richard L. Wilson, was asked to do many tasks. "They quickly improvised, cutting backboards out of plywood and using light stands for I.V. stands. Their quick ideas really made us work well together," said Lt. Col. John G. Bunch, deputy base commander.

By the time the Navy P-3 from Adak landed, just before 7 a.m., all the injured had been removed from the Chinese airliner and triaged. The Navy medical team was immediately put to work augmenting Shemya's small team of medical staff and fire department emergency medical technicians. With most of the base helping and volunteering, in almost every aspect, most of the island's people saw and felt the magnitude of the incident. "I thought it was an exercise until I walked into the hangar," said Sgt. Michelle Medrow from the precision measurement equipment lab.

"A lot of people think self-aid and buddy care are a waste of time, but after 16 years of military service I'm glad I learned it," commented MSgt. Joe Peace, chief of the test measurement diagnostic equipment section. "It felt real good to be able to help and use what I learned."

The fuels people safely and expeditiously provided services to the Navy, Coast Guard and Air Force aircraft, and helped with patients whenever possible. "We had fuel trucks waiting for each aircraft that came in. Everything was going like clockwork," said fuels NCOIC TSgt. Bob Fruth.

"It looked like a MASH unit inside the hangar. I gained a lot of respect for Dr. Towne, the 'med techs' and fire department," said TSgt. Todd Miller, base supply NCOIC.

SSgt. Steve Beistline, NCOIC of equipment management said everyone just jumped in and did what needed to be done. SSgt. Walter Edwards Jr., added "I was impressed with everyone's attitude of 'what can I do to help?'"

While all the injured were being tended to, the morale and welfare people transformed the gym into a possible 'mini hotel' to accommodate anyone who would have to stay overnight. Communications people set up extra phone lines so the passengers could call their families and loved ones. "After we set up the lines it was difficult (making calls), but after we talked to the Alascom operators and explained the problems they helped us out immediately," said SSgt. Johnny R. Batton, NCOIC, outside plant telephone maintenance.

MWR people and volunteers helped the dining facility staff, "We had to prepare extra food and send more than 350 box lunches to the triage hangar. Without the MWR and volunteers that helped us, we couldn't have had things go so smooth," said TSgt. Earnest Gatewood, shift supervisor.

Simple support like a smile or cup of juice were invaluable, "They were so polite and nice" said MSgt. Sandra Courshon, acting chief of supply. "I was especially glad when one of the ladies spoke the words 'American Air Force so kind' I could have helped for another 24 hours."

The first aircraft to leave with patients was a Det. 1, 55th OG RC-135 assigned to Offut AFB, Neb. It left the island at 8:24 a.m. with 27 critically injured patients. On board were three Det. 1, EMT qualified crew members, two firefighter EMTs, three Adak medical people, and a base switchboard operator to help with the injured. The crew provided continuous care of the patients on their 1,500 mile journey to Elmendorf.

Additionally, a Coast Guard C-130 from Sacramento, temporarily on station, and a Navy C-130 from Adak also took patients to Elmendorf. Each carried some of Shemya's people and Adak's medical people. The last plane to leave Shemya with patients was a C-141 out of McChord AFB, Wash., which was sent from Elmendorf earlier that day.

Once at Elmendorf, the patients were transferred to the base hospital and hospitals in Anchorage. No additional fatalities occurred en route.

The whole evacuation took more than 12 hours after flight 583 had landed and 157 patients were triaged. "We had tremendous support from everybody, a one-hundred percent effort from the whole base," said Bunch.

Mr. MURKOWSKI. Mr. President, literally hundreds of men and women participated in the efforts described in the article I just inserted in the RECORD. If they had not responded so quickly and professionally, many more of the critically injured might have died.

While I cannot give due recognition to the hundreds of individuals who participated in this effort, I would like to recognize and commend the units that made significant contributions:

From Shemya Air Force Base, recently renamed Eareckson Air Force Station in the Aleutians: 673d Air Base Group, and 55th Strategic Wing.

From Elmendorf Air Force Base, AK: Headquarters, 11th Air Force, 3d Wing Staff, 3d Operations Group, 3d Logistics Group, 3d Support Group, 3d Medical Center, and 11th Air Control Wing.

From Adak Naval Air Station, AK: Branch hospital, Adak Operations Department, and Patrol Squadron 40, on rotation from Moffett Field NAS, CA.

From McChord Air Force Base, WA: 62d Airlift Wing.

From Fort Richardson, AK: 106th Military Intelligence Battalion.

And, of course, from Coast Guard elements in Alaska: 17th Coast Guard District Command Center, Juneau, Coast Guard Air Station, Kodiak.

Mr. President, all of those who serve in these units played a role in the response to this emergency. They each deserve our thanks for a job well done.

CHILDREN WITH DISABILITIES AND FEDERAL SCHOOL MEAL PROGRAMS

Mr. DOLE. Mr. President, 2 years ago this month I spoke on the Senate floor about the difficulties many children with disabilities face in participating in our school meal programs. Fortunately, somebody was listening. Today there is a renewed effort underway around the country to make the national school lunch and breakfast programs accessible to children who, because of a disability or chronic illness, are unable to eat what is on the regular menu. I want to take this opportunity to highlight some of the activities that are going on and some additional steps that should be taken.

In my earlier remarks, I noted that while many schools have done a great job of accommodating children with disabilities, others did not know about or failed to comply with Federal requirements on modifying meals. Examples of such modifications include substituting foods for a child with diabetes, or modifying a food's texture for a child with cerebral palsy who has trouble chewing and swallowing. Denying children with disabilities access to modified meals can jeopardize their health, separate them from their peers, and, if they are low-income, place financial burdens on their families.

In response to my comments, the Food and Nutrition Service of the U.S. Department of Agriculture, which administers school meal programs at the Federal level, undertook a number of steps to increase awareness of these requirements. They revised the model letter sent to households at the beginning of the school year to include information on the availability of modified meals for children with disabilities. They also contacted States to reiterate their responsibility to ensure that schools receive the guidance and training necessary to accommodate these children.

As a result, there have been numerous workshops planned or held around the country at the regional, State, and local levels focusing on adapting school meals for special needs children. I was privileged to participate in a national workshop on feeding special needs children sponsored in Kansas City last fall by the National Food Service Management Institute, which I want to commend for taking such an active role on this issue. Efforts are being made in States and communities to link school food service operators with other service providers dealing with children with disabilities. Finally, FNS has established a best-practice award for accommodating special needs children and at the regional level is helping support the creation of state-of-the-art training materials for school personnel.

I deeply appreciated the previous administration's responsiveness to my concerns about the accessibility of school meals, and I am pleased that Secretary Espy has stated that he also considers this issue a priority. The reauthorization of the child nutrition programs in 1994 will provide an opportunity to see how much progress has

been made in serving these children and to determine how best we can help school food service workers get the tools they require to provide the necessary accommodations. In the meantime, I urge USDA to move as quickly as possible to issue its updated policy instruction and guidance on serving special-needs children. School food service employees need this information to help ensure that they are in compliance with Federal disability laws and child nutrition program regulations. I also encourage USDA to make sure that the training materials it is involved in producing are made as widely available as possible.

Mr. President, Congress established the National School Lunch Program to serve the nutrition needs of all the Nation's schoolchildren. We are not truly fulfilling this goal unless children with disabilities, too, can participate.

CREATING A WINNING STRATEGY FOR THE WAR ON DRUGS

Mr. McCAIN. Mr. President, it is all too easy to talk of a war on drugs, involve our military in an antidrug program, pour billions in to the effort, and then disguise a lack of success with reassuring rhetoric. Wars, however, are not political games, they are not exercises in political imagery, and they cannot be won with rhetoric or false measures of success.

I believe that there is a good reason to talk about a war on drugs. It is our children, our disadvantaged, our cities, and our way of life. It is the damage the drug trade does to every American, and to his or her hopes and security. It is the damage that our drug trade does to other nations, particularly Latin America, Asia, and the Middle East.

We cannot stand by and accept defeat or failure. We cannot afford to throw words and money at the problem and simply walk away. This is why I believe we must bring a new strategy and a new honesty to the war on drugs. It is why I believe we must honestly acknowledge that our current effort is not working, wastes taxpayer dollars, and fails to concentrate its efforts and resources where there is a real threat.

I have had my staff investigating the current trends in the war on drugs for over a year. The result has been deeply disturbing. Time and again, it has been clear that no real effort has taken place to gather critical data, to verify the data now used, or to establish overall priorities. Time and again, people have talked about success when, in fact, the cumulative effect of all efforts to seize and interdict smuggled drugs have not reduced supply on the street, or led to higher drug prices.

USING FALSE MEASURE OF SUCCESS

The measures of success that are being made public have virtually no practical meaning. For example efforts to assist seizures are measured in terms of the amount of drugs seized, with no effort to relate such data to the percentage of total drugs that get through, or to whether the seizures have any meaningful impact on the main smuggling networks.

Constant reference is made to the street price of drugs. This seems to be impressive to those in the media who have never bothered to consider the meaning of such data, but law enforcement officers who exaggerate the importance of their seizures by describing the value of their seizures in street prices are indulging in little more than publicity stunts. Smugglers do not pay street prices. They do not measure losses in street prices. In most cases, the major smugglers have paid just a small fraction of the so-called street price for the drugs that are seized, and see such losses as a minor cost of doing business.

Another equally meaningless measure of capability is to report the number of detections, arrests, or intercepts, with no attempt to relate this to the number of successful crossings or actual convictions, or whether such actions have any real effect on the flow of drugs.

Finally, we see references to surveys that indicate a decline in the number of users, and a growing opposition to the use of drugs, but that fail to define the validity of the questions and sampling method, the size of the sample involved, and other key factors that define whether the results are accurate and representative of the problem.

We are, effectively, using only those measures which imply success. Rather than measure the actual cost-effectiveness of our actions, we are using rhetoric and feel-good briefings and analysis. The end result is a war on drugs which bears a disturbing resemblance to the pacification campaign in Vietnam, and to the "Southeast Asia Data Base" the Department used during that conflict. We are winning a war on paper that we are losing on the streets.

SETTING MEANINGFUL GOALS FOR THE USE OF THE MILITARY

These problems are particularly apparent in our use of the military and technology to halt the flow of drugs into the United States. We need to reexamine our current objectives, the methods we use, and our measures of success.

We cannot win a war on drugs if our efforts do not have a material effect on both the supply and demand sides of the equation—on the flow of drugs into the United States, the price of drugs, and the key cartels producing and smuggling them. If our military efforts do not contribute to some coordinated plan toward this end, with tangible measures of success, they are a failure. We simply are not focused on the real threat: smuggling across the land portions of the southwest border.

Let me put this threat in its proper perspective. In a recent letter I received from the Acting Drug Coordinator of the Department of Defense, I was informed that, "70 percent of the South American cocaine entering the U.S. comes across the southwest border," and that "the level of smuggling across the Southwest border by general aviation aircraft is considered low and is not expected to significantly increase in the near future."

The staffs of the El Paso Intelligence Center [EPIC] and Joint Task Force 6 [JTF-6] confirm the estimate of the Acting Drug Coordinator of the Department of Defense that an extremely high percentage of this traffic moves across the Mexican border at regular points of entry by commercial truck, trailer, and privately owned vehicle.

Most of the current military and law enforcement effort has no real impact on this aspect of the flow of drugs into the United States. We have had various estimates of how much of the cocaine traffic crosses our borders without detection, but most range from 90 to 95 percent, and virtually all experts seem to agree that the loss rate is so low that smugglers see it as little more than normal overhead. In fact, this interception rate seems to produce a lower loss rate to the smuggler than the shoplifting losses affecting many downtown retail stores.

Military and law enforcement activities do seem to be somewhat more successful in reducing the flow of drugs into Mexico from South America, and may be slightly more effective in trying to reduce the amount of drugs grown in Latin America. The data we have been provided on such efforts, however, are impressionistic and contradictory and people working in the field seem significantly less optimistic than people working here in Washington. This is another area where rigorous independent analysis and auditing is necessary to determine the true state of effectiveness.

DRIVING DRUGS ACROSS THE SOUTHWEST BORDERS

There are also growing indications that the net effect of the military war on drugs to date may well have been to shift the flow of drugs to channel even more narcotics across the land borders of Arizona, California, New Mexico, and Texas.

The U.S. Navy, other military services, Coast Guard, and Customs have been unable to address the problem of container vessels—which now enter the United States without any effective search procedures. At the same time, they do seem to have reduced the flow of small craft from South America and through the Caribbean. The same is true, to a lesser extent, of small craft movement by sea through the Pacific.

Unfortunately, this military activity has not reduced the flow of drugs into the United States, it has only moved it. While the data involved are ambiguous, the Acting Drug Coordinator of

the Department of Defense stated in his letter to me that, "* * * the increased aerial and maritime pressure applied by law enforcement in the Carribean, with assistance provided by military assets, was perceived to be responsible for an expansion in the usage of drug smuggling routes across the Southwest border. * * *" In effect, we have spent a great deal to make drug smugglers change their behavior, rather than reduce their success.

The air interdiction effort has had similar problems. It has had no effect on commercial aircraft or large business jets, and the Department of Defense still believes that the law enforcement community currently assess the noncommercial air and maritime threat to be increasing. At the same time, the air interdiction effort has acted to channel smugglers into using small aircraft to land at various points in Mexico and into supplying Mexican smuggling networks that cross the land borders.

Ironically, many DEA officials believe that the air surveillance effort has actually made the major drug smugglers more efficient. Not overflying U.S. borders has allowed them to use more payload for drugs because they do not need to carry fuel on board, has reduced aircraft losses due to interdiction and exhaustion, and has reduced the loss rate of pilots.

It is difficult to be certain about these trends because neither the Office of National Drug Control Policy [ONDCP] nor the Office of the Secretary of Defense seems to have analyzed such trends in any systematic or quantifiable form, and no Federal agency or organization seems to have a meaningful analytic capability to look at the overall effects of its efforts.

Each of the individual law enforcement agencies, joint task forces, and commands seems to be left to carry out its mission of supporting individual law enforcement efforts in isolation. As a result, insufficient effort seems to be made to seriously and objectively study the extent to which we are really reducing cultivation in Latin America, the flow of drugs into Mexico, or the overall patterns of drug movement and extent to which the flow is being channeled across the Southwest border.

We have been unable to even get answers to relatively simple questions about key parts of the war on drugs. The Air Force, for example, is now supporting the U.S. Customs aerostat effort. No one in the Department, however, is charged with looking at what the aerostats actually accomplish. It is clear that many of the aerostats are down so often that they leave prolonged and predictable gaps in their coverage. It is clear that all of the aerostats are often down for several days at a time, that these down times are often announced over local radio, that they can easily be seen from the ground, and that active aerostats can be easily detected with commercial radar detectors. Further, it is clear from discussions at EPIC and JTF–6 that the aerostats in Arizona have significant and well-known low altitude gaps in their coverage.

The tradeoffs between these disadvantages and the potential advantages gained from deterring some small aircraft and detecting others as they land in Mexico never seems to have been examined in any analytic way. There also seems to be insufficient effort to develop an overall strategy of air interdiction between the use of aircraft and aerostats or to examine the tradeoffs between funding the aerostats and funding improved coverage of the land borders.

In fact, ONDCP seems to lack the ability to show whether or not its overall effort, regardless of what it may do for the rest of the country, has acted to increase the net threat to the State of Arizona.

PUTTING RESOURCES WHERE THE PROBLEM IS

We cannot go on this way. We need to put our resources where the problem is—particularly when we use high-cost assets like those operated by the military.

There may be no effective solution to the use of the military in dealing with key threats—in which case, we should reprogram a major amount of the money now spent to deal with domestic law enforcement and drug treatment within the United States. It is striking, however, that JTF–6 seems to have had remarkably little support in dealing with the land border issue.

Last year, I found that the Department of Defense had made decisions which sharply reduced the Department's ability to use many of its surveillance assets to deal with land threats. It was only after pressure on the Department and legislation in last year's Defense Authorization Act that this situation was changed.

Major problems, however, still remain. The Department has never presented a clear plan to the Congress to make use of its capabilities to secure the land borders. It is still constraining JTF–6 with unrealistic rules of engagement, and its technology effort ignores the most serious single method of cocaine smuggling.

To begin with, it is clear that a serious and coordinated effort needs to be made to examine what can be done to improve surveillance and interdiction of the border outside legal points of entry. It is not clear whether some kind of fence, sensor system, improved check point system, or improved rear area surveillance is needed. What is clear is that simply providing military support to meet the uncoordinated efforts of individual law enforcement agencies is not cost-effective.

Second, a comprehensive reexamination is needed of the present policies, rules, law, and regulations affecting JTF–6. This examination should involve:

The lack of any effective cooperation between JTF–6 and Mexican law enforcement officials.

An all-source review of JTF–6's access to intelligence sensor systems and ability to use them.

Immediate reevaluation of the present rules that (a) JTF–6 can only assist in efforts where there is a detection of the actual movement of drugs across the border, (b) the present constraint that monitoring and communications of movement can only be executed if activity occurs within 25 miles of the border (land) and without 25 miles of and outside the United States (air), and (c) implementation options to broaden the use of air/ground, and water operations throughout the southwest border States without infringing on the limits placed by posse comitas.

Third, a comprehensive and immediate reexamination is needed of the southwest border technology program to determine why it does not contain a significant effort to develop technologies like high energy x rays and pulsed fast neutron scanning that can aid in the nonintrusive search of trucks, trailers, and privately owned vehicles at crossing points and check points.

Experts seem to agree that the inability to rapidly search commercial and private vehicles for drugs, or to search even 5 percent of the vehicles involved, makes other land and air interdiction efforts almost pointless. At this point, however, efforts to use nonintrusive search technology are not properly integrated into the technology plan.

ARPA is some 6 months behind schedule in funding key parts of the development effort, and no effort has been made to use the test facility being built at Tacoma to examine the search of tractor trailers and privately owned vehicles in addition to the containers used on ships.

Fourth, a comprehensive reexamination of the Department's budget priorities is needed to examine the weight of effort assigned to the southwest border. It is axiomatic that military resources should be put where the threat is. Unfortunately, the current allocation of resources seems to be based on putting them where the forces are. This seems to be another major factor in contributing to the funnel effect that is causing increased drug traffic across the Southwest border.

I believe that ONDCP needs to join the Department of Defense in this effort, and broaden it to include the Federal law enforcement agencies and intelligence effort as well. We need to firmly recognize that we accomplish nothing if we can only deter or arrest small-scale smuggling efforts; if we

cannot solve the problems posed by container vessels, commercial aircraft, commercial and privately owned vehicles; and if we cannot bring a halt to the near sanctuary status Mexico offers smugglers in the Southwest border area.

SEEKING VICTORY, NOT CLAIMS OF VICTORY

I have written the Director of National Drug Control Policy and the Secretary of Defense, asking them for a formal response to the issues I have just raised, and with specific proposals to reshape our technology effort to provide meaningful coverage of the Southwest border. I sincerely hope that the result will be a recognition that we have institutionalized the wrong approach to the problem, put resources into the wrong mission priorities, and used the wrong measures of effectiveness.

Ideally, the result will be new plans of action and a new honesty about the effectiveness of what we have done to date. If not, I ask all of my colleagues to join me in an effort to get at the real facts, challenge the prevailing approach, and put us on the right track. Anyone can claim victory and do so at the taxpayer's expense. We need real victories that protect both our citizens and the taxpayer's dollar.

Mr. President, I respectfully request that the letters I have sent to the Director of ONDCP and Secretary Aspin be entered into the RECORD at the end of my remarks.

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

U.S. SENATE,
Washington, DC, May 5, 1993.

Hon. LES ASPIN,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY ASPIN: As you begin to conduct your "bottom up" review of our future force posture and strategic needs, I believe that it is imperative to consider a fundamentally different approach to the use of the military in the war on drugs, with the goal of fully integrating the military effort into a national effort which produces meaningful results in terms of reduced supply on the street, and higher drug prices.

As you know, the amount the Department of Defense is expending on the war on drugs has grown to over one billion dollars, largely as a result of reallocating military capabilities and resources to support the demands of law enforcement agencies. Unfortunately, there has not been any meaningful attempt to measure the effectiveness of the military in the process. At best, there are anecdotal statements or broad surveys from federal, state, and local law enforcement agencies that indicate they find the military support useful in meeting the needs of dozens of uncoordinated law enforcement efforts.

Some might argue that there are quantifiable measures of effectiveness, but these have virtually no practical meaning. Efforts to assist seizures are measured in terms of the amount of drugs seized, with no effort to relate such data to impacts on street supply or the total flow of drugs; to the street price of drugs, which is often an order of magnitude higher than the price to the smuggler, or to the number of detections or intercepts, with no attempt to relate this to the estimated number of successful crossings or actual convictions.

We are, effectively, using only those measures which imply success. Rather than measure the actual cost-effectiveness of our actions, we are using rhetoric and "feel good" briefings and analysis. The end result is a war on drugs which bears a disturbing resemblance to the pacification campaign in Vietnam, and to the "Southeast Asia Data Base" the Department used during that conflict. We are winning the war on paper that we are losing on the streets.

I do not believe that the Department's efforts are any more uncoordinated, or that the reporting is any more unrealistic, than the efforts of ONDCP. I would be the first to admit that many members of Congress make claims about the success of programs they have sponsored that cannot be sustained by the facts. However, I believe that you have a unique opportunity to redirect the Department's efforts, to give them new direction and methods of measuring their effectiveness, and to resolve a problem that threatens my state, the Southwest border area, and the nation.

SETTING MEANINGFUL GOALS FOR THE USE OF THE MILITARY

The first step in restructuring the Department of Defense effort in the war on drugs is to reexamine the objective, the methods used, and the measures of success.

We cannot "win" a war on drugs if our efforts do not have a material effect on both the supply and demand sides of the equation—on the flow of drugs into the U.S., the price of drugs, and the key cartels producing and smuggling them. If our military efforts do not contribute to some coordinated plan towards this end, with tangible measures of success, they are a failure.

It can be argued that some efforts are valuable regardless of whether we are winning or losing because they deter smuggling and an even grater supply of cheap drugs on the street. Even these arguments, however, must be related to an overall campaign plan, and detailed comparisons of cost-effectiveness.

We do not come close to meeting any of these tests today.

DEALING WITH THE REAL PROBLEMS

The second step in restructuring the Department of Defense effort in the war on drugs is to honestly address the fact that most of this effort has no real impact on the key targets that dominate the flow of drugs into the United States.

I and my staff have been repeatedly informed by the El Paso Intelligence Center, Customs, and the various Joint Task Forces that the primary methods of cocaine and heroin smuggling are container vessels and vehicle traffic across the southwest border—most of which consist of commercial trucks and privately owned vehicles. In fact, I have received letters from the Department stating that more than 70% of the cocaine entering into the U.S. moves by land across the southwestern border.

At present, the military effort does virtually nothing to deal with these threats—container vessels, vehicles crossing at legal points of entry, or commercial vehicles. These threats, which dominate the drug trade, are now being addressed by Customs, DEA, and the Border Patrol.

The most the military can do is to try to reduce the amount of drugs grown in Latin America—an effort which so far seems to be doing little more than shift areas of cultivation; help Mexico deal with transhipments from South America, and reduce the flow of small ships and private aircraft into the U.S. If we cannot use the military to attack the main sources of drugs, then we will inevitably fail.

DRIVING DRUGS ACROSS THE SOUTHWEST BORDERS

The third aspect is to recognize that the net effect of the Department's efforts to date may well have been to shift the flow of drugs to channel even more narcotics across the land borders of Arizona, California, New Mexico, and Texas.

The U.S. Navy and other military services may have been unable to address the problem of container vessels, but they do seem to have reduced the flow of small craft from South America and through the Caribbean. The same is true, to a lesser extent, of movement by sea through the Pacific. While the data involved are ambiguous, part of this flow seems to have been rechanneled to move through Mexico, and across the land borders.

Similarly, the air interdiction effort also acts to channel smugglers into using small aircraft to land at various points in Mexico and into supplying Mexican smuggling networks that cross the land borders. Ironically, many DEA officials believe that this has made the smugglers more efficient. Not overflying U.S. borders has allowed them to use more payload for drugs because they do not need to carry fuel on board, has reduced aircraft losses due to interdiction and exhaustion, and has reduced the loss rate of pilots.

We have never had a satisfactory answer to our questions on this issue from either OSD or ONDCP, but the Department seems to have no overall analytic capability to look at these effects of its efforts. Each of the individual Joint Task Forces and commands seems to be left to carry out its mission of supporting individual law enforcement efforts in isolation. As a result, no effort is being made to seriously study the extent to which the Department is really affecting cultivation in Latin America, the flow of drugs into Mexico, or the overall patterns of drug movement and extent to which the flow is being channeled across the southwest border.

We have been unable to even get answers to relatively simple questions about key parts of this effort. The Air Force, for example, is now supporting the U.S. Customs aerostat effort. No one in the Department, however, is charged with looking at what the aerostats actually accomplish. It is clear that many of the aerostats are down so often that they leave prolonged and predictable gaps in their coverage. It is clear that all of the aerostats are often down for several days at a time, that these down times are often announced over local radio, that they can easily be seen from the ground, and that active aerostats can be easily detected with commercial radar detectors. Further, it is clear from discussions at EPIC and JTF–6 that the aerostats in Arizona have significant and well known low altitude gaps in their coverage.

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In fact, the Department seems to lack the ability to show whether or not its overall ef-

fort, regardless of what it may do for the rest of the country, has acted to increase the net threat to the state of Arizona.

PUTTING RESOURCES WHERE THE PROBLEM IS

Fourth, we need to put our resources where the problem is. There may be no effective solution to the use of the military in dealing with key threats—in which case, we should reprogram a major amount of the money now spent to deal with domestic law enforcement and drug treatment within the U.S. It is striking, however, that JTF–6 seems to have had remarkably little support in dealing with the land border issue.

Last year, I found that the Department had made decisions which sharply reduced the Department's ability to use many of its surveillance assets to deal with land threats. It was only after pressure on the Department and legislation in last year's Defense Authorization Act that this situation was changed.

Major problems, however, still remain. The Department has never presented a clear plan to the Congress to make use of its capabilities to secure the land borders. It is still constraining JTF–6 with unrealistic rules of engagement, and its technology effort ignores the most serious single method of cocaine smuggling.

To begin with, it is clear that a serious and coordinated effort needs to be made to examine what can be done to improve surveillance and interdiction of the border outside legal points of entry. It is not clear whether some kind of fence, sensor system, improved check point system, or improved rear area surveillance is needed. What is clear is that simply providing military support to meet the uncoordinated efforts of individual law enforcement agencies is not cost-effective.

Second, a comprehensive reexamination is needed of the present policies, rules, law, and regulations affecting JTF–6. This examination should involve:

The lack of any effective cooperation between JTF–6 and Mexican law enforcement officials.

An all-source review of JTF–6's access to intelligence sensor systems and ability to use them.

Immediate reevaluation of the present rules that (a) JTF–6 can only assist in efforts where there is a detection of the actual movement of drugs across the border, (b) the present constraint that monitoring and communications of movement can only be executed if activity occurs within 25 miles of the border (land) and without 25 miles of land outside the U.S. (air), and (c) implementation options to broaden the use of air, ground, air/ground, and water operations throughout the southwest border states without infringing on the limits place by posse comitas.

Third, a comprehensive and immediate reexamination is needed of the southwest border technology program to determine why it does not contain a significant effort to develop technologies like high energy X-rays and pulsed fast neutron scanning that can aid in the non-intrusive search of trucks, trailers, and privately owned vehicles at crossing points and check points.

Experts seem to agree that the inability to rapidly search commercial and private vehicles for drugs, or to search even 5% of the vehicles involved, makes other land and air interdiction efforts almost pointless. At this point, however, efforts to use non-intrusive search technology are not properly integrated into the technology plan.

Advanced Research Projects Agency is some six months behind schedule in funding key parts of the development effort, and no effort has been made to use the test facility being built at Tacoma to examine the search of tractor trailers and privately owned vehicles in addition to the containers used on ships.

Fourth, a comprehensive reexamination of the Department's budget priorities is needed to examine the weight of effort assigned to the southwest border. It is axiomatic that military resources should be put where the threat is. Unfortunately, the current allocation of resources seems to be based on putting them where the forces are. This seems to be another major factor in contributing to the "funnel effect" that is causing increased drug traffic across the southwest border.

SEEKING VICTORY, NOT CLAIMS OF VICTORY

I apologize for the unusual length and detail in this letter. However, we both know how easy it is to give our military the wrong mission and the wrong measures of effectiveness, and how costly the consequences can be. I believe that we have institutionalized the wrong approach to the problem, the wrong mission, and the wrong measures of effectiveness, and I hope that you will make this the subject of an independent investigation that can get at the facts, challenge the prevailing approach, and put us on the right track.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

U.S. SENATE,
Washington, DC, May 12, 1993.

Dr. LEE BROWN,
Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR DR. BROWN: As I stated in my letter of May 5, 1993, I am very concerned about the continual flow of illicit drugs across the Southwest border of the United States. Drug traffickers continue to take advantage of a wide variety of smuggling opportunities afforded by the extended open land borders and coastal areas.

The yearly traffic of millions of legitimate U.S. commercial and passenger entries along our Southwest border makes it too easy for drug traffickers to blend into the flow. Sorting illegal aliens, smugglers, drugs and other illegal material from the legitimate traffic and commerce entering the U.S. across the Southwest border is one of the more difficult problems facing us today. This is why I believe that an urgent effort is needed to use advanced technology to address these problems.

The core of the necessary effort already exists within the Office of National Drug Control Policy (ONDCP). The infrastructure program approach presented in the ONDCP R&D Blueprint sent to Congress last August provides a major step toward evaluating advanced technology in testbed facilities open to the entire federal, state, and local counterdrug R&D communities. The testbeds will be used to evaluate new technologies and prototype systems to detect contraband hidden in large cargo containers and vehicles. The locations and environments selected for placing the testbeds should closely approximate the operational needs of the law enforcement community for counterdrug operations.

Recently, the Department of Defense, as part of the national counterdrug infrastructure program, opened a Nonintrusive Cargo Inspection Technology Testbed at Tacoma, Washington. This testbed will be used to evaluate new technologies and prototype systems to detect contraband hidden in large cargo containers and vehicles. A nonintrusive testbed configured with advanced inspection and intelligent prescreeening technology along the Southwest border would be a positive step toward improving our ability to more effectively inspect for drugs entering through my region of the country.

Technology could help our inspection personnel in several areas.

Each year our ports and airports are used by thousands of aircraft and vessels and on the order of a hundred million cars, trucks and containers. Progress is needed to intercept shipments of illegal drugs before they reach our streets—without impeding the flow of legitimate commerce. Operational testbed facilities are needed to evaluate prototype technologies before committing to the development or purchase of equipment—especially in quantity.

More effective deterrents are needed along our largely open land borders. The vast majority of the U.S./Mexican border is open; along most of the border markers indicate only the international boundary. The relative ease with which trafficking organizations can bring their drugs into the Southwest is challenged only by the weather and terrain. The solution lies somewhere between a 200 mile fence to a practical electronic border control system.

Information sharing and timely access to central databases among law enforcement agencies needs improvement. Information management projects should be done to enhance information exchange procedures and to provide the operating law enforcement officials with as much information from available databases as possible.

Our law enforcement agents need to be supported by better training and operations support. While the military invests in research to improve their effectiveness, we need to invest to improve our effectiveness along the borders to defeat drug traffickers.

It is my sincere hope that you share my concerns, especially when it comes to the Southwest border, and will take immediate steps to address these issues. I look forward to hearing your views on each of these issues, and I can assure you that I stand ready to provide any support I can.

You have a tremendous challenge facing you, but I am confident that your eminent qualifications and past successes in Atlanta, Houston, and New York afforded you unique insights and skills especially suited for the tasks at hand.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

U.S. SENATE,
Washington, DC, May 12, 1993.

Hon. LES ASPIN,
Secretary of Defense, Department of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY ASPIN: As I stated in my letter of May 5, 1993, I am very concerned about the continual flow of illicit drugs across the Southwest border of the United States. Drug traffickers continue to take advantage of a wide variety of smuggling opportunities afforded by the extended open land borders and coastal areas.

The yearly traffic of millions of legitimate U.S. commercial and passenger entries along our Southwest border makes it too easy for drug traffickers to blend into the flow. Sorting illegal aliens, smugglers, drugs and other illegal material from the legitimate traffic and commerce entering the U.S. across the Southwest border is one of the more difficult

problems facing us today. This is why I believe that an urgent effort is needed to use advanced technology to address these problems.

The core of the necessary technical effort already exists within the Office of National Drug Control Policy (ONDCP), several of which are being funded and managed by ARPA and the Department of Defense. The infrastructure program approach presented in the ONDCP R&D Blueprint sent to Congress last August provides a major step toward evaluating advanced technology in testbed facilities open to the entire federal, state, and local counterdrug R&D communities. The testbeds will be used to evaluate new technologies and prototype systems to detect contraband hidden in large cargo containers and vehicles. The locations and environments selected for placing the testbeds should closely approximate the operational needs of the law enforcement community for counterdrug operations.

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The kind of technology being developed by ARPA and the Department of Defense could help our inspection personnel in several areas.

Each year our ports and airports are used by thousands of aircraft and vessels and on the order of a hundred million cars, trucks and containers. Progress is needed to intercept shipments of illegal drugs before they reach our streets—without impeding the flow of legitimate commerce. Operational testbed facilities are needed to evaluate prototype technologies before committing to the development or purchase of equipment—especially in quantity.

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You have a tremendous challenge facing you, but I am confident that your eminent qualifications and past successes in Atlanta, Houston, and New York have afforded you unique insights and skills especially suited for the tasks at hand.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

U.S. SENATE,
Washington, DC, May 5, 1993.

Dr. LEE BROWN,
Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR DR. BROWN: I believe that the time has come for a fundamentally different and more realistic approach to the war on drugs. One that emphasizes integration of the military and law enforcement effort, detailed analysis of the overall and individual effectiveness of given interdiction and seizure activities, rigorous cost-effectiveness analysis and budget trade-offs to reinforce high priority efforts, and the willingness to honestly distinguish between failure and success.

I have had my staff investigating the current trends in the war on drugs for over a year. The result has been deeply disturbing. Time and again, it has been clear that no real effort has taken place to gather critical data, to verify the data now used, or to establish overall priorities. Time and again, people have talked about success when the cumulative activity of all efforts to seize and interdict smuggled drugs have had no meaningful results in terms of reduced supply on the street, and higher drug prices.

Some might argue that there are quantifiable measures of effectiveness, but these have virtually no practical meaning. For example, efforts to assist seizures are measured in terms of the amount of drugs seized, with no effort to relate such data to impacts on street supply or the total flow of drugs; to the street price of drugs, which is often an order of magnitude higher than the price to the smuggler, or to the number of detections or intercepts, with no attempt to relate this to the estimated number of successful crossings or actual convictions.

We are, effectively, using only those measures which imply success. Rather than measure the actual cost-effectiveness of our actions, we are using rhetoric and "feel good" briefings and analysis. The end result is a war on drugs which bears a disturbing resemblance to the pacification campaign in Vietnam, and to the "Southeast Asia Data Base" the Department used during that conflict. We are winning a war on paper that we are losing on the streets.

I would be the first to admit that members of Congress make claims about the success of programs they have sponsored that cannot be sustained by the facts. However, I believe that you have a unique opportunity to redirect the ONDCP's efforts, to give them new direction and methods of measuring their effectiveness, and to resolve a problem that threatens my state, the Southwest border area, and the nation.

SETTING MEANINGFUL GOALS FOR THE USE OF THE MILITARY

The first step in restructuring the ONDCP effort in the war on drugs is to reexamine the objective, the methods used, and the measures of success.

We cannot "win" a war on drugs if our efforts do not have a material effect on both the supply and demand sides of the equation—on the flow of drugs into the U.S., the price of drugs, and the key cartels producing and smuggling them. If our military efforts do not contribute to some coordinated plan towards this end, with tangible measures of success, they are a failure.

It can be argued that some efforts are valuable regardless of whether we are winning or losing because they deter smuggling and an even greater supply of cheap drugs on the street. Even these arguments, however, must be related to an overall campaign plan, and detailed comparisons of cost-effectiveness.

We do not come close to meeting any of these tests today.

DEALING WITH THE REAL PROBLEMS

The second step in restructuring the ONDCP effort in the war on drugs is to honestly address the fact that most of the current military and law enforcement effort has no real impact on the key targets that dominate the flow of drugs into the United States.

I and my staff have been repeatedly informed by EPIC, Customs, and the various Joint Task Forces that the primary methods of cocaine and heroin smuggling are container vessels and vehicle traffic across the southwest border—most of which consists of commercial trucks and privately owned vehicles. In fact, I have received letters from the Department stating that more than 70% of the cocaine entering into the U.S. moves by land across the southwestern border.

At present, the military and law enforcement can do little to deal with these threats—container vessels, vehicles crossing at legal points of entry, or commercial vehicles. We have had various estimates of how much of the cocaine traffic crosses our borders without detection, but most range from 90% to 95%, and virtually all experts seem to agree that the loss rate is so low that smugglers see it as little more than normal overhead. (In fact, this interception rate produces a lower loss rate to the smuggler lower than the shoplifting losses affecting many downtown retail stores.)

Military and law enforcement activities do seem to be somewhat more successful in reducing the flow of drugs into Mexico from South America, and may be slightly more effective in trying to reduce the amount of drugs grown in Latin America. The data we have been provided on such, however, are impressionistic and contradictory and people working in the field seem significantly less optimistic than people working here in Washington. This is another area where rigorous independent analysis and auditing is necessary to determine the true state of effectiveness.

DRIVING DRUGS ACROSS THE SOUTHWEST BORDERS

The third step is to recognize that the net effect of the war on drugs to date may well have been to shift the flow of drugs to channel even more narcotics across the land borders of Arizona, California, New Mexico, and Texas.

The U.S. Navy, other military services, Coast Guard, and Customs may have been unable to address the problem of container vessels, but they do seem to have reduced the flow of small craft from South America and through the Caribbean. The same is true, to a lesser extent, of movement by sea through the Pacific. While the data involved are ambiguous, part of this flow seems to have been rechanneled to move through Mexico, and across the land borders.

Similarly, the air interdiction effort also acts to channel smugglers into using small aircraft to land at various points in Mexico and into supplying Mexican smuggling net-

that cross the land borders. Ironically, many DEA officials believe that this has made the smugglers more efficient. Not overlying U.S. borders has allowed them to use more payload for drugs because they do not need to carry fuel on board, has reduced aircraft losses due to interdiction and exhaustion, and has reduced the loss rate of pilots.

We have never had a satisfactory answer to our questions on this issue from either OSD or ONDCP, and no Agency or organization seems to have an overall analytic capability to look at these effects of its efforts. Each of the individual law enforcement agencies, Joint Task Forces and commands seems to be left to carry out its mission of supporting individual law enforcement efforts in isolation. As a result, no effort is being made to seriously study the extent to which we are really affecting cultivation in Latin America, the flow of drugs into Mexico, or the overall patterns of drug movement and extent to which the flow is being channeled across the southwest border.

We have been unable to even get answers to relatively simple questions about key parts of this effort. The Air Force, for example, is now supporting the U.S. Customs aerostat effort. No one in the Department, however, is charged with looking at what the aerostats actually accomplish. It is clear that many of the aerostats are down so often that they leave prolonged and predictable gaps in their coverage. It is clear that all of the aerostats are often down for several days at a time, that these down times are often announced over local radio, that they can easily be seen from the ground, and that active aerostats can be easily detected with commercial radar detectors. Further, it is clear from discussions at EPIC and JTF-6 that the aerostats in Arizona have significant and well known low altitude gaps in their coverage.

The trade-offs between these disadvantages and the potential advantages gained from deterring some small aircraft and detecting others as they land in Mexico never seem to have been examined in any analytic way. There also seems to be no effort to develop an overall strategy of air interdiction between the use of aircraft and aerostats or to examine the trade-offs between funding the aerostats and funding improved coverage of the land borders.

In fact, ONDCP seems to lack the ability to show whether or not its overall effort, regardless of what it may do for the rest of the country, has acted to increase the net threat to the state of Arizona.

PUTTING RESOURCES WHERE THE PROBLEM IS

The fourth step is to put our resources where the problem is. I have not studied the allocation of resources in civil agencies in depth, but it is all too clear that problems exist within the military effort.

There may be no effective solution to the use of the military in dealing with key threats—in which case, we should reprogram a major amount of the money now spent to deal with domestic law enforcement and drug treatment within the U.S. It is striking, however, that JTF-6 seems to have had remarkably little support in dealing with the land border issue.

Last year, I found that the Department of Defense had made decisions which sharply reduced the Department's ability to use many of its surveillance assets to deal with land threats. It was only after pressure on the Department and legislation in last year's Defense Authorization Act that this situation was changed.

Major problems, however, still remain. The Department has never presented a clear plan to the Congress to make use of its capabilities to secure the land borders. It is still constraining JTF-6 with unrealistic rules of engagement, and its technology effort ignores the most serious single method of cocaine smuggling.

To begin with, it is clear that a serious and coordinated effort needs to be made to examine what can be done to improve surveillance and interdiction of the border outside legal points of entry. It is not clear whether some kind of fence, sensor system, improved check point system, or improved rear area surveillance is needed. What is clear is that simply providing military support to meet the uncoordinated efforts of individual law enforcement agencies is not cost-effective.

Second, a comprehensive reexamination is needed of the present policies, rules, law, and regulations affecting JTF-6. This examination should involve:

The lack of any effective cooperation between JTF-6 and Mexican law enforcement officials.

An all-source review of JTF-6's access to intelligence sensor systems and ability to use them.

Immediate reevaluation of the present rules that (a) JTF-6 can only assist in efforts where there is a detection of the actual movement of drugs across the border, (b) the present constraint that monitoring and communications of movement can only be executed if activity occurs within 25 miles of the border (land) and without 25 miles of and outside the U.S. (air), and (c) implementation options to broaden the use of air, ground, air/ground, and water operations throughout the southwest border states without infringing on the limits place by posse comitas.

Third, a comprehensive and immediate reexamination is needed of the southwest border technology program to determine why it does not contain a significant effort to develop technologies like high energy X-rays and pulsed fast neutron scanning that can aid in the non-intrusive search of trucks, trailers, and privately owned vehicles at crossing points and check points.

Experts seem to agree that the inability to rapidly search commercial and private vehicles for drugs, or to search even 5% of the vehicles involved, makes other land and air interdiction efforts almost pointless. At this point, however, efforts to use non-intrusive search technology are not properly integrated into the technology plan.

ARPA is some six months behind schedule in funding key parts of the development effort, and no effort has been made to use the test facility being built at Tacoma to examine the search of tractor trailers and privately owned vehicles in addition to the containers used on ships.

Fourth, a comprehensive reexamination of the Department's budget priorities is needed to examine the weight of effort assigned to the southwest border. It is axiomatic that military resources should be put where the threat is. Unfortunately, the current allocation of resources seems to be based on putting them where the forces are. This seems to be another major factor in contributing to the "funnel effect" that is causing increased drug traffic across the southwest border.

I believe that ONDCP needs to join the Department of Defense in this effort, and broaden it to include the federal law enforcement agencies and intelligence effort as well. We need to firmly recognize that we accomplish nothing if we can only deter or arrest small scale smuggling efforts; if we cannot solve the problems posed by container vessels, commercial aircraft, commercial and privately owned vehicles; and if we cannot bring a halt to the near sanctuary status Mexico offers smugglers in the southwest border area.

SEEKING VICTORY, NOT CLAIMS OF VICTORY

I apologize for the unusual length and detail in this letter. However, I believe that we have institutionalized the wrong approach to the problem, the wrong mission, and the wrong measures of effectiveness, and I hope that you will make this the subject of an independent investigation that can get at the facts, challenge the prevailing approach, and put us on the right track. Anyone can claim victory and do so at the taxpayer's expense. We need real victories that protect both our citizens and the taxpayer's dollar.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

OFFICE OF THE DEPARTMENT OF DEFENSE COORDINATOR FOR DRUG ENFORCEMENT POLICY AND SUPPORT,
Washington, DC, February 26, 1993.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: This is in further response to your July 29, 1992, letter to Secretary Cheney regarding the problem of drug smuggling across the land border between the United States and Mexico.

We have reviewed available drug threat assessments for the Southwest border area and have identified roles the military can and will play in supporting drug law enforcement agencies in their counterdrug efforts in this critical area. The following information is a synopsis of available data provided for your information:

SOUTHWEST BORDER DRUG TRAFFICKING PATTERNS

The Southwest Border is 1,929 miles long and is characterized by tremendous diversity—dense population centers to unpopulated areas, high border fences to no fences, very deep canyons and mountains to flat terrain, and dense vegetation to barren desert.

Similarly, the drug smuggling threat moving across the Southwest Border is just as diverse as the terrain—operating a highly flexible system which continually adapts and varies the trafficking approaches. Smuggling along the Southwest Border is done, to a large extent, by close-knit and well-established family organizations.

Based on current threat assessments and seizure data, it is estimated that 70% of the South American cocaine entering the U.S. comes across the Southwest Border. Although the increased aerial and maritime pressure applied by law enforcement in the Caribbean, with assistance provided by military assets, was perceived to be responsible for an expansion in the usage of drug smuggling routes across the Southwest Border, no hard evidence exists to confirm this perception. The law enforcement community currently assesses the noncommercial air and maritime smuggling threat as increasing. However, the level of smuggling across the Southwest Border by general aviation aircraft is considered low and is not expected to significantly increase in the near future.

Investigations, both in Mexico and the U.S., indicate that most of the cocaine crossing the Southwest Border is transported using traditional overland routes via tractor-trailers and other land vehicles. Arizona and California have had the most seizures recently. This does not necessarily mean more activity.

Cocaine moved across the border through ports of entry is transported in trunks or concealed compartments of automobiles, concealed compartments in trucks or vans, or mingled with legitimate cargo moved in tractor-trailers. Although backpackers, animal pack trains, automobiles, and pickup trucks are used when smuggling cocaine between the ports, it is believed that the majority of the cocaine enters the U.S. through the ports of entry, especially in those areas where the border fence has been upgraded with the installation of steel landing mats.

As persistent and effective pressure is increased against the noncommercial methods of delivery, traffickers will increasingly attempt to exploit the potential of commercial conveyances.

ARIZONA SPECIFIC THREAT DATA

Cocaine is moved across the Arizona border through ports of entry at Douglas, Nogales, and San Luis in large commercial vehicles and smaller vehicles, the latter often fitted with concealed compartments. The most commonly encountered concealments involve inclusion of the cocaine in commercial shipments in tractor-trailer loads of ore, clay tile, or produce and in the trunks and false compartments of automobiles.

Between the ports of entry, backpackers or pack animals carry the cocaine to temporary stash locations north of the border where it is subsequently picked up by vehicles for transportation to stash houses in Tucson or Phoenix.

DOD SOUTHWEST BORDER COUNTERDRUG SUPPORT ROLE STRATEGY

The Department of Defense has and will continue to provide support in countering the flow of illegal drugs into the United States through efforts both outside the United States and at or near the Nation's borders and ports of entry. Additionally, DoD has long recognized the importance of counterdrug support efforts along the Southwest Border and, as demonstrated below, it is our intent to continue to place a high priority on DoD support to this critical geographical area. Our strategy will focus on the following five areas: (1) Increased use of Active, National Guard, land other Reserve resources, (2) Development and implementation of high technology detection equipment, (3) Increased manning of ports of entry and check-points, (4) Increased use of multiagency tactical response teams, and (5) Implementation of border control enhancements, i.e. improved fences and border road construction/improvements. If the efforts of the law enforcement agencies and DoD result in a shift in the drug threat or smuggling activity, we will review our support strategy and provide to the law enforcement agencies the level of support that is within our capability.

DOD COUNTERDRUG SUPPORT EFFORTS

The following recitation of counterdrug efforts undertaken by DoD on the Southwest Border in support of Federal, state, and local drug law enforcement agencies demonstrates our resolve and commitment to this critical area.

DoD has increased significantly the support to the Southwest Border area over the last three fiscal years (FY). Employing units from all the Services, DoD conducted an unprecedented total of 465 counterdrug support missions in FY 92 compared with 279 missions in FY 91 and only 20 missions in FY 90. In addition, the scale of counterdrug support operations has been expanded from squad and platoon size operations to company and battalion size operations of approximately 700 personnel. This expansion resulted in well over 13,000 military personnel participating in counterdrug support operations along the Southwest Border during FY 92 and represents a 1,113% increase in number of personnel over FY 90

The priority of the Commander in Chief, Forces Command (CINCFOR) counterdrug support will continue to be directed toward the Southwest Border and encompasses the following specific types of support operations:

Ground Surveillance Radars/Remotely Monitored Battlefield Area Surveillance System—detect drug traffickers and report suspicious activity to DLEAs at ports of entry.

Air Transportation/Aerial Detection and Monitoring/Aerial Reconnaissance—Provide aerial support to drug interdiction and eradication operations.

Listening Post/Observation Post Training Exercises—Conduct visual/photographic reconnaissance of areas suspected of being used for smuggling operations and report suspicious clandestine activity to DLEAs.

Engineer Support to U.S. Border Fence—Construction upgrade/repair/reinforcing 10 foot high steel fence along the border at suspected drug trafficking corridors.

Tunnel Detection Operations—Locate potential tunnel sites under the U.S./Mexican Border.

The National Guard has also placed priority on Southwest Border support operations. Over 36% of the total funds authorized for the use of National Guard personnel and equipment in support of drug law enforcement agencies, as requested in the state plans submitted by the governors of the 54 states and territories, were allocated to the four Southwest Border states of Arizona, California, New Mexico, and Texas. The types of Southwest Border support provided by the National Guard under this program include the following:

Border surveillance;

Port of Entry vehicle and cargo inspections;

Linguistic/Intelligence Analysts;

Engineer Support—Road Construction/Upgrade;

Aerial Photography;

LEA Liaison Support;

Computer, Logistic, and Maintenance Support;

Ground and Aerial Surveillance;

Training Support for Law Enforcement Agencies;

Communications Support;

Mobile Ground Radar Support.

Title 10 (Active Duty) personnel are constrained by the Posse Comitatus Act from direct involvement in many types of surveillance. Title 32 National Guard personnel, however, are not subject to the Posse Comitatus limitations and have provided and will continue to provide this type of surveillance support to law enforcement agencies along the border. The DLEAs report that this support has greatly enhanced their drug interdiction capability resulting in a significant increase in seizures and arrests.

Recognizing the need for effective communications interoperability among the various organizations involved in counterdrug operations, DoD was directed to integrate U.S. command, control, communications, and intelligence (C3I) assets into an effective communications network. The result of this effort is called the Antidrug Network (ADNET). There are currently over 130 operational ADNET terminals at 56 sites supporting 26 counterdrug organizations with identified requirements for over 150 additional sites. Of this number, 15 ADNET terminals are operating in two of the Southwest Border states—Texas and California—with requests to establish 16 more Southwest Border terminals (one in Arizona). ADNET allows users to access and share information from a variety of DoD/LEA sensor/surveillance resources.

Finally, because of the large volume of drugs that are entering the United States hidden in commercial cargo containers and vehicles and the consequent need to greatly increase the law enforcement drug detection capabilities at our ports of entry, DoD has tasked the Defense Advanced Research Projects Agency to oversee the research, development and testing of non-intrusive inspection devices which can detect the presence of cocaine and heroin in cargo containers, large vessels, vehicles, and other conveyances. The first X-Ray imaging prototype, capable of imaging an entire cargo container without unloading the contents, was recently evaluated at a Houston, Texas, test bed facility; the results were very positive. A second test bed is currently being constructed at Tacamo, Washington, and should be operational by April 1993. This site will include both X-Ray and neutron activation systems to detect drugs in cargo containers. A third test bed will be operational at Otay Mesa, California, in June 1993 and will include an X-Ray system capable of detecting drugs concealed in the numerous empty tractor-trailers crossing the border. When fully developed and fielded, this technology should greatly enhance the drug detection efforts along the Southwest Border while minimizing the disruption to legitimate commercial activity. In the meantime, National Guard personnel will continue to augment U.S. Customs Service personnel in the inspection of cargo at U.S. ports of entry.

We feel that our performance record clearly manifests our support and dedication to the efforts of the Southwest Border law enforcement agencies. As stated above, if we find that the illegal drug threat and the requirements change, we will continue to review and modify our strategy as required and provide the counterdrug support that is consistent with the legal constraints under which we must operate and within our capability.

Thank you again for your continuing support of the counterdrug support efforts of the Department of Defense.

Sincerely,

MICHAEL A. WERMUTH,
Deputy Assistant Secretary for Drug Enforcement Policy (Acting DoD Drug Coordinator).

GOD WASN'T KICKED OUT, AFTER ALL

Mr. HELMS. Mr. President, anybody who has a remaining doubt about the root cause of the moral breakdown of America may find some useful clues in an article in the newspaper published in my hometown on May 12.

I should add parenthetically that the Raleigh, NC, News and Observer itself is not noted for having an understanding of why the moral and spiritual collapse is happening. The truth is, that newspaper, and many other liberal publications like it across America, are a major part of the problem.

In any case, Mr. President, the Raleigh paper reported on May 12 that the

principal of East Wake High School in Wendell, NC, ordered the choral society at his school to strike any reference to God from the song, "Irish Blessing," scheduled to be sung at this year's commencement exercises.

The school principal is not particularly to be faulted except in the sense that he probably never raised a ruckus about the unconscionable Supreme Court decisions of the 1960's plus the one of 1992 that banished God from the classrooms.

So what the principal did was to demand that the word God be removed from the lovely song, "Irish Blessing"—which is roughly akin to ordering the draining of the Atlantic Ocean. The precise basis for his decision, the principal explained, was the Supreme Court's 1992 ruling last year in the case Weismann versus Lee.

Then, Mr. President, came the news that the Supreme Court had let stand a Seventh Circuit Court of Appeals decisions prohibiting the voluntary distribution of Gideon Bibles to fifth-graders in an Indiana public school system—even though the fifth-graders voluntarily requested the Bibles.

So, one may conclude, it is permissible to distribute condoms to students in the schools, but not Bibles.

Mr. President, since the Supreme Court's decisions opposing any voluntary religious activity in the public schools began in the 1960's, an entire generation has grown up without the benefit of religious influence in their schools.

My good friend, William Bennett—who knows a thing or two about children and education inasmuch as he served as Secretary of Education under President Reagan—has accumulated statistics and data evaluating the social and moral climate of this country.

This "Index of Leading Cultural Indicators," as Bill Bennett calls it, documents the implications of our Nation's moral decline—a decline which directly coincides with the Supreme Court's outlawing school prayer in the 1960's.

For instance, in 1960, 8 percent of children lived with single mothers; in 1990, 22 percent of children lived with single mothers. The percentage of illegitimate births over the three decade interim has risen sharply from 5.3 to 26.2 percent, while the number of children on welfare has similarly and predictably risen from 3.5 percent in 1960 to nearly 12 percent in 1990. The teenage suicide rate has jumped from 3.6 to 11.3 percent during the same period of time.

Mr. President, Bill Bennett's Index documents what many Americans have been saying all along—that substituting moral relativism for religion, enforced with the counterfeit cries of "separation of church and state"—has been a miserable failure. The "do-it-if-it-feels-good" immorality permeating our society has not led to happier and more productive lives for our children—it has done precisely the opposite.

There is, however, one bright spot to this story. In the days following the News and Observer article to which I alluded earlier, so many parents and teenagers expressed their disapproval of the principal's order that he had no choice but to reverse his decision.

But, before it is too late, we must have the courage to stand up for the role of religion in our society if America is to survive. The students of Wendell, NC, and their families have demonstrated such courage and my hat's off to them.

Mr. President, I ask unanimous consent that William Bennett's article entitled "Quantifying America's Decline" which appeared in the Wall Street Journal on March 15 be included in the RECORD at the conclusion of my remarks, along with articles from the Releigh News and Observer of May 12 and 14; also an article from the Washington Times of May 18.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Raleigh News and Observer, May 12, 1993]

PRINCIPAL PULLS GOD FROM GRADUATION SONG

(By Pamela Babcock)

WENDELL.—East Wake High School singers practiced the song dozens of times and were just getting it right when a single, powerful word got in their way.

Principal Del Burns, citing a U.S. Supreme Court ruling on separation of church and state, objected to a lone reference to God in an Irish hymn that student choirs planned to sing at East Wake's graduation June 5.

The young singers have retooled the tune, "Irish Blessing," yanking the word "God" and replacing it with "love."

But patching up that problem has opened another dispute.

Choir member Kelly Wilcox, a senior who plans to major in biology at N.C. A&T State University, said Burns' decision violates the students' First Amendment right to freedom of speech.

"A lot of us got upset," Wilcox said. "It's just the principle of it. They're making a big deal out of it. I can see if someone is going to go up there and pray and say, 'Amen,' but it's nothing that big."

Burns' veto of the verse—"May the God that loves us all hold you in the palm of his hand"—took Wake school officials to a new level in their struggle to interpret the Supreme Court's ruling that prayer at public school graduations is unconstitutional.

Superintendent Robert Wentz informed parents of graduating seniors last fall that the court's decision forced the Wake schools to stop sponsoring baccalaureates. His action caused sharp resentment among many parents and students, most of them fundamentalist Christians.

Burns, however, said he doesn't think he overreacted this year.

"I'm not playing censor," he said Monday. "I'm making a decision about the Supreme Court decision. My job is to uphold the law."

The students had spent a month rehearsing "Irish Blessing," only to have Burns pull the plug last month when a draft of the graduation program crossed his desk.

Burns, who knows the song, told the choir to drop it entirely or replace the religious reference.

The students rewrote the disputed line to read, "May the love that binds us all hold you in the palm of its hand."

Some members of the Concert Chorus, one of three choirs at East Wake, considered boycotting the ceremony. Other students contemplated raising a sign with the word "God" written on it during the performance.

"We had people crying, just going out with their feelings," Wilcox said. "We just broke down. The subject was so deep."

The song is one of two that students are scheduled to perform when 280 East Wake seniors graduate.

"It's like an inspiration before we go on," Wilcox said. "We're taught in school, in civics, that we have freedom of choice, religion and assembly. Then somewhere in the Constitution it says something about separation of state and religion. I think that's contradictory."

Wilcox, who said she prays and goes to church, said she contacted local ministers and hopes others will take interest in the issue.

"I think everybody's going to grit their teeth and bear it," Wilcox said. "I don't feel right about it, though. It just doesn't feel right taking something like that out."

Olisha Cox, another senior member of the choir, said performing the hymn has lost some meaning because of the change.

"Just knowing the words, it does defeat the purpose of the song to me," she said. "We don't feel inspired singing it. We just don't want to sing it now."

Burns defended his decision.

"It's a benediction, and there can be, according to the Supreme Court, no entanglement between the church and state," he said.

Wentz said Burns did not consult him.

"He did it on his own and properly so," Wentz said.

THE ALTERED LYRIC

The original verse of "Irish Blessing" is:
May the road rise to meet you,
May the wind be always at your back,
May the sun shine warm upon your face,
And the rains fall soft upon your fields,
And until we meet again,
May the God that loves us all
Hold you in the palm of his hand.
The last line, as rewritten by the students, now is:
May the love that binds us all
Hold you in the palm of its hand.

[From the Raleigh News and Observer, May 14, 1993]

PRINCIPAL RESURRECTS GOD IN "IRISH BLESSING"

(By Pamela Babcock)

WENDELL.—God's back at East Wake High School.

School officials, faced with a chorus of opposition to their decision to keep a group of high school students from singing the word "God" at graduation June 5, have changed their minds.

Principal Del Burns announced his decision during a fifth-period class Thursday afternoon, acknowledging that he had been besieged by calls. Students were elated.

"Everybody was excited, everybody's mouth dropped," said Rebecca Humphries, 15, a sophomore from Knightdale. "Lots of people don't listen to you because they say you're just a teenager. But as teenagers we can be positive, set good examples and do good too."

The students, who had argued that the ban violated their First Amendment right to free speech, decided not to practice the song "Irish Blessing" on Thursday afternoon. Instead they listened sympathetically while Burns—a popular principal—struggled to explain how he reached his decision.

"He said he didn't know which way to go with it," senior Kelly Wilcox said. "I respect that and understand that. We're on equal sides now with the principal."

The school's 25-member concert chorus had practiced the Irish hymn for about a month before Burns scotched it, citing a 1992 Supreme Court ruling prohibiting religious programs at school graduations. The singers reworked the lyric—"May the God that loves us all hold you in the palm of his hand"—substituting the word "love" for "God."

School officials said Burns sought school attorneys' legal interpretation of the ruling Wednesday after he received dozens of calls about the issue. Burns could not be reached Thursday.

"He certainly felt strongly about the community being upset," said school board member Linda Johnson, who represents the district that includes East Wake High. "I'm sorry the whole thing ever came up."

It wasn't the first time, the Supreme Court's new "God guidelines" have been put to the test in Wake schools.

Last fall, Superintendent Robert Wentz caused sharp resentment among some parents and students after he announced that the court's ruling would force the schools to stop sponsoring baccalaureates.

Other pressures may have been coming to bear on the principal. Ron Taylor, a conservative activist and director of Operation Save-A-Baby, had contacted the Rutherford Institute, a legal and education organization specializing in the defense of religious freedom. He said lawyers there were ready to sue the school system if the "egregious act" wasn't corrected.

Wilcox, a member of the singing group, said she received calls from more than a dozen backers after she helped bring the issue to light this week.

"I've been getting calls from ministers, lawyers and other people who are supportive," Wilcox said. "I was on the phone since I got home at 4 p.m. until midnight."

Members of the choral group threatened to boycott the ceremony, while others considered hoisting a sign with the word "God" rather than singing the word.

Wentz said he leaves decisions on program content to individual principals, but added that he will encourage principals to consult the school system's attorneys.

Meanwhile, Wilcox said she hopes the efforts of the students won't be forgotten.

"This is not the end," Wilcox said. "Next year, it'll pop up again and somebody might not stand up next time."

[From the Wall Street Journal, Mar. 15, 1993]

QUANTIFYING AMERICA'S DECLINE

(By William J. Bennett)

Is our culture declining? I have tried to quantify the answer to this question with the creation of the Index of Leading Cultural Indicators.

In the early 1960s, the Census Bureau began publishing the Index of Leading Economic Indicators. These 11 measurements, taken together, represent the best means we now have of interpreting current business developments and predicting future economic trends.

The Index of Leading Cultural Indicators, a compilation of the Heritage Foundation and Empower America, attempts to bring a similar kind of data-based analysis to cultural issues. It is a statistical portrait (from 1960 to the present) of the moral, social and behavioral conditions of modern American society—matters that, in our time, often travel under the banner of "values."

Perhaps no one will be surprised to learn that, according to the index, America's cultural condition is far from healthy. What is shocking is just how precipitously American life has declined in the past 30 years, despite the enormous governmental effort to improve it.

Since 1960, the U.S. population has increased 41%; the gross domestic product has nearly tripled; and total social spending by all levels of government (measured in constant 1990 dollars) has risen from $143.73 billion to $787 billion—more than a fivefold increase. Inflation-adjusted spending on welfare has increased by 630%, spending on education by 225%.

But during the same 30-year period there has been a 560% increase in violent crime; a 419% increase in illegitimate births; a quadrupling in divorce rates; a tripling of the percentage of children living in single-parent homes; more than a 200% increase in the teenage suicide rate; and a drop of almost 80 points in SAT scores.

Clearly many modern-day social pathologies have gotten worse. More important, they seem impervious to government's attempts to cure them. Although the Great Society and its many social programs have had some good effects, there is a vast body of evidence suggesting that these "remedies" have reached the limits of their success.

Perhaps more than anything else, America's cultural decline is evidence of a shift in the public's attitude and beliefs. Social scientist James Q. Wilson writes that "the powers exercised by the institutions of social control have been constrained and people, especially young people, have embraced an ethos that values self-expression over self-control." The findings of pollster Daniel Yankelovich seem to confirm this diagnosis. Our society now places less value than before on what we owe to others as a matter of moral obligation; less value on sacrifice as a moral good; less value on social conformity and respectability; and less value or correctness and restraint in matters of physical pleasure and sexuality.

Some writers have spoken eloquently on these matters. When the late Walker Percy was asked what concerned him most about America's future, he answered: "Probably the fear of seeing America, with all its great strength and beauty and freedom . . . gradually subside into decay through default and be defeated, not by the Communist movement, demonstrably a bankrupt system, but from within by weariness, boredom, cynicism, greed and in the end helplessness before its great problems." Alexander Solzhenitsyn, in a speech earlier this year, put it this way: "The West . . . has been undergoing an erosion and obscuring of high moral and ethical ideals. The spiritual axis of life has grown dim." John Updike has written: "The fact that, compared to the inhabitants of Africa and Russia, we still live well cannot ease the pain of feeling we no longer live nobly."

Treatises have been written on why this decline has happened. The hard truth is that in a free society the ultimate responsibility rests with the people themselves. The good news is that what has been self-inflicted can be self-corrected.

There are a number of things we can do to encourage cultural renewal. First, government should heed the old injunction, "Do no harm." Over the years it has often done unintended harm to many of the people it was trying to help. The destructive incentives of the welfare system are perhaps the most glaring example of this.

Second, political leaders can help shape social attitudes through public discourse and through morally defensible social legislation. A thoughtful social agenda today would perhaps include: a more tough-minded criminal justice system, including more prisons; a radical reform of education through national standards and school choice; a system of child-support collection, whereby fathers would be made to take responsibility for their children; a rescinding of no-fault divorce laws for parents with children; and radical reform of the welfare system.

But even if these and other worthwhile efforts are made, we should temper our expectations of what government can do. A greater hope lies elsewhere.

Our social and civic institutions—families, churches, schools, neighborhoods and civic associations—have traditionally taken on the responsibility of providing our children with love, order and discipline—of teaching self-control, compassion, tolerance, civility, honesty and respect for authority. Government, even at its best, can never be more than an auxiliary in the development of character.

The social regression of the past 30 years is due in large part to the enfeebled state of our social institutions and their failure to carry out their critical and time-honored tasks. We desperately need to recover a sense of the fundamental purpose of education, which is to engage in the architecture of souls. When a self-governing society ignores this responsibility, it does so at its peril.

Eight cultural indicators

Average daily TV viewing

	Hours
1960	5:06
1965	5:29
1970	5:56
1975	6:07
1980	6:36
1985	7:07
1990	6:55
1992	7:04

Source: Nielsen Media Research.

Percent of illegitimate births

1960	5.3
1970	10.7
1980	18.4
1990	26.2

Source: National Center for Health Statistics.

Children on welfare

	Percent
1960	3.5
1965	4.5
1970	8.5
1975	11.8
1980	11.5
1985	11.2
1990	11.9

Source: Bureau of the Census; U.S. House of Representatives.

Violent crime rate (per 100,000)

1960	16.1
1965	20.0
1970	36.4
1975	48.8
1980	59.7
1985	53.3
1990	73.2
1991	75.8

Source: F.B.I.

SAT scores

1960	975

1965	969
1970	948
1975	910
1980	890
1985	906
1990	900
1992	899

Source: The College Board.

Children with single mothers

	Percent
1960	8
1970	11
1980	18
1990	22

Sources: Bureau of the Census; Donald Hernandez. The American Child: Resources from Family, Government and the Economy.

Teen Suicide Rate

	Percent
1960	3.6
1965	4.0
1970	5.9
1975	7.6
1980	8.5
1985	10.0
1990	11.3

Source: National Center for Health Statistics.

Median prison sentence[1]

	Days
1954	22.5
1964	12.1
1974	5.5
1984	7.7
1988	8.5
1990	8.0

[1] Serious Crime: murder, rape, robbery, aggravated assault, burglary, larceny/theft and motor vehicle theft.

Source: National Center for Policy Analysis.

[From the Washington Times, May 18, 1993]

JUSTICES BAR BIBLE HANDOUTS AT SCHOOL

The Supreme Court yesterday let stand a ruling that barred the distribution of Gideon Bibles to fifth-graders in an Indiana public school system.

The justices, without comment, rejected arguments by Rensselaer, Ind., school officials, who said the longtime practice did not violate the constitutionally required separation of church and state.

The 7th U.S. Circuit Court of Appeals in January ordered the Rensselaer district to stop the challenged practice, saying, "The distribution of Bibles in Indiana schools offends the First Amendment of the Constitution.

"People are accustomed to finding Gideon Bibles tucked in the drawers of their hotel rooms; much less frequently do they find them stashed in the desks of their public school classrooms," the appeals court said.

School officials in Rensselaer, a rural northwest Indiana county, let Gideons International give Bibles to fifth-graders for more than 30 years. For more than 20 years, representatives from other organizations—the 4-H Club, Boy Scouts and Girl Scouts—have spoken to Rensselaer students and handed out literature.

Allen Berger, whose two children attended Rensselaer schools, sued the school district in 1990. He objected to the distribution of Bibles.

U.S. District Judge Allen Sharp ruled that the practice could continue because halting it would single out religious groups and messages for hostile treatment. But the 7th Circuit court reversed that ruling.

"A public school cannot sanitize an endorsement of religion . . . by also sponsoring non-religious speech," the appeals court said, relying on a Supreme Court decision last June barring official prayers at public school graduations. The ruling "leaves little room for public schools to teach or promote religion, and the distribution of Gideon Bibles cannot fit in these restrictive confines."

Rensselaer school officials said the appeals court ruling erects "an absolute wall of separation between students in state-run schools and religious persons with religious messages and values."

THE WISDOM OF HENRY HYDE

Mr. HELMS. Mr. President, many of us have the pleasure and honor of knowing the Honorable HENRY J. HYDE, who serves across the Capitol as the U.S. Representative from the Sixth District of Illinois.

HENRY has a well-deserved reputation for eloquence and common sense—a combination evident in his recent address to an organization called the Republican Majority Coalition.

HENRY's remarks about the moral issues facing our Nation may discomfort some—but can enlighten all, which is why I commend it to my colleagues.

Mr. President, I ask unanimous consent that the text of Representative HENRY J. HYDE's remarks to the Republican Majority Coalition on May 10, 1993, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS TO REPUBLICAN MAJORITY COALITION, U.S. REPRESENTATIVE HENRY J. HYDE

Thank you for inviting me to meet with you this morning.

Our topic is an urgent one: How can we broaden the base of the Republican Party?

Identifying the concerns and aspirations of our party with the concerns and aspirations of the American people is a goal with which I'm entirely sympathetic. Any party that fritters away the advantages that the Republican Party enjoyed in the late Spring of 1991 has some thinking to do.

So does any party that lets itself get beaten by Bill Clinton: a standard-issue big-government liberal whose masquerade as a "New Democrat" ended abruptly on November 4, 1992: the day after the election, and the day after which we heard no more about tax relief for the middle class, about "ending welfare as we know it," about reforming our decrepit government schools, and about a new era of fiscal responsibility.

A lot of instant mythology has quickly grown up around the 1992 election, and its important for this group, and for all Republicans, to understand just why George Bush lost.

George Bush didn't lose because the American people watched our convention and thought it was a replay of the Rocky Horror Picture Show; our ticket got a 9-15 percent bounce up immediately after the convention. George Bush lost because the Republican Party didn't respond to the Democratic and media caricature of our convention as a sinister event reminiscent of the 1938 Nuremberg rally.

George Bush didn't lose because of our party's plank on abortion; exit polls showed that for those voters who made their voice primarily on the abortion question, our position was a net plus.

The Republican Party lost the presidency because it ran a poor campaign. That campaign failed to articulate a compelling vision of the American future. It didn't expose the passion for social engineering and the environmental radicalism of the Clinton/Gore team. It didn't tap the frustration and anger of the American middle class at the nanny state's endless intrusions into our lives. It let the Democrats define the wedge issue as "the economy, stupid"—an economy, by the way, that was already on the way back.

So what are the lessons of the 1992 campaign?

Lesson No. 1 is that Republicans lose, nationally, when we run as a pale imitation of the Democratic Party. That leaves all the initiative on the other side, and it puts us immediately on the defensive, from which we never seem to escape. "Republican" does not equal "Democrat Lite."

Lesson No. 2 is that Republicans should stop being embarrassed by the New York, Washington, and Hollywood tastemakers. If we worry about how we're playing in Beverly Hills, the Upper East Side, and Cleveland park, and neglect Orlando, Raleigh, Peoria, Phoenix, Richmond, Erie, Orange County, and Indianapolis, we're going to lose, and lose, and lose again. Republicans have got to straighten their spines and understand this: for so long as we defend a free economy, lower taxes, entrepreneurship, a strong national defense, and the values on which this country was built, we're going to be mocked and pilloried by the forces of political correctness. Well, c'est la vie. We'll take our case to the people, and if we present it with conviction and compassion, we'll win.

Lesson No. 3 is that you don't multiply by dividing, and you don't add by subtracting. George Bush lost because many of those who managed his Administration, his campaign, and his national party apparatus were uncomfortable with, even nervous about, perhaps even disdainful of, the key swing vote in America today: the so-called "Reagan Democrats" who won us three landslides in the 1980's, but whom we assiduously ignored in 1992.

Lesson No. 4 is the oldest lesson in politics: you can't beat something with nothing. Put more positively, people support people who believe in something. And that brings me directly to the question of how we can "broaden the base of the Republican Party."

1. We will broaden the base of the Republican Party if we identify our party, now, with the parents' revolt that is picking up steam across the country. Look at school district 24 in Queens; look at the Wisconsin state Superintendent of Education race last month; look at the law suit filed by inner city Chicago parents, charging that the government schools are denying their children the right to a "decent education" guaranteed by our state constitution; look at the school choice initiatives being pressed in states throughout the country. Everywhere, parents are saying, "Enough is enough. Not with our kids, you don't."

This parents' revolt is like the early days of the tax revolt in the 1970's. It's just beginning to pick up steam. The party that aligns itself with this revolt will have a good chance at dominating the politics of the 1990's and beyond, just as the party that aligned itself with the tax revolt of the mid-1970's dominated the politics of the 1980's.

And the key to channeling the parents' revolt into productive reform is to wholeheartedly and unabashedly endorse, as a

central plank of the Republican platform, full parental choice in education. Our educational system—and the effective monopoly on public funds enjoyed by government schools—is the greatest single failure of the nanny state. The government schools are run by bureaucrats and their teachers' union allies, for bureaucrats and their teachers' union allies. That system absorbs ever-larger amounts of tax dollars while giving us everless return on our investment. The educational establishment is damaging our children's future, and it is damaging our country's future. Everybody is mad at it: parents, employers, students, and teachers who try to buck the system.

The government educational system is beyond self-reform. We now spend almost $275 billion per year on government elementary and secondary schools—more than 4 percent of gross domestic product. That spending has increased by more than 40 percent over the past decade. And the results continue to be, not just disappointing, but disgraceful. The answer isn't more money; the answer is competition. Just as the Postal Service began to reform itself only after consumers got a real choice through Federal Express and fax machines, government schools are only going to reform themselves when their primary consumers—parents and children—get a real choice.

We can argue about whether that choice is best created through vouchers, or tax credits, or some combination of the two. But a Republican Party seeking to broaden its base will identify itself, clearly and unambiguously, with parents' revolt, and with full parental school choice—including the choice for independent schools—as the linchpin issue of the parents' revolt.

2. The Republican party will effectively broaden its base if it challenges the quota mentality that is running riot in the Clinton Administration. Our creed should be Dr. Martin Luther King, Jr.'s creed: we believe in an America where our people are judged on the content of their character, not on the color of their skins—or their gender, their "sexual orientation," or their ethnicity.

The quota mentality, unchecked, will kill the American experiment. It does not help foster the noble virtue of tolerance; it creates anger, resentment, and division. It does not foster genuine pluralism; it creates a Balkanized America, where tribes are at war with each other—sometimes, quite literally—for their preferential place at the governmental trough.

The Republican Party ought to become, again, the party of black aspiration in these United States: not by keeping African Americans chained to the liberal plantation and locked into the vicious cycle of poverty and welfare dependence, but by creating policies that reward responsibility and entrepreneurial energies; that strengthen families and local communities; that give black parents the power to educate their children as they, not the educrats, see fit; and that protect urban communities from gang warfare, thugs, and drug terrorism.

A Republican Party whose only response to African Americans is to get underbid by Democrats in the welfare plantation sweepstakes is a party that has abandoned its birthright.

3. And the Republican Party should expand—that's right, expand—its base by vigorously pressing the "social issues": individual responsibility, the integrity of the traditional family, and maximum feasible legal protection for the unborn.

We've all heard it said that America, today, is in the midst of a culture-war. We may shy away from that imagery, but however we describe the reality, it's there. Either you believe in governmental funding for "performance act" that is, by any civilized standard, degrading and obscene, or you don't. Either you believe that the legal definition of "marriage" should be extended to homosexual couples and to any other configuration of adults sharing living space and access to each other's bodies, or you don't. Either you believe in teaching "Heather Has Two Mommies" to first-graders, or you don't. Either you believe in the "politically correct" restriction of free speech on campus, or you don't. Either you believe in unregulated abortion-on-demand, or you don't.

There is no way to avoid these issues. There is no way to mugwump these issues. The "social issues"—coupled with the parents' revolt—are the politics of the 1990's. And we shouldn't be embarrassed to say so: after all, as Bill Bennet remainds us, take away the "social issues" from Abraham Lincoln, and what have you got?

If press reporting on your group has been even moderately accurate, you believe that the "social issues" are "divisive," that "issues of morality and conscience" should be "excluded" from our party's deliberations, and that pressing "traditional family values" is a political loser.

I believe that you are mistaken.

I believe that all politics is an extension of ethnics. I believe that politics without conscience is a prescription for tyranny, I believe the issue is not whether we can check our moral convictions at the caucus room door—we can't—but rather what moral convictions will shape our party's platform and policies after a reasonable, civil, and democratic debate.

I'll even take it one step farther: I believe that it is possible to debate the "social issues" in ways that deepen our sense of American community, that contribute to a rebirth of genuine freedom, that revivify in our nation a commitment to individual responsibility in personal and public life—and that win elections.

And let me illustrate that conviction by reference to the most intensely debated, even neuralgic, of the "social issues:" the issue of the right-to-life of the unborn.

Twenty years ago, on the day after the Supreme Court handed down Roe v. Wade, The New York Times wrote that the Court had "ended" the abortion controversy in America. Well, on this, as on so many other things, the Times just didn't get it. The abortion controversy isn't over. Moreover—and despite an extraordinary campaign mounted by the prestige press, Hollywood, the Democrats, and feminist groups financed by such dubiously "feminist" organizations as the Playboy Foundation—the American people still do not support abortion on demand. Every poll with which I'm familiar demonstrates that at least 60 percent of the American people reject the resort to abortion as a means of ex-post-facto birth control. Why?

I think there are two reasons why.

First, the American people have a better moral intuition than many members of the American cultural elite. They know that the argument in the abortion debate is not whether the fetus is a human life; that is a medical and biological fact that is beyond reasonable dispute. No reasonable person denies that fetal life is life. And because that fetal life possesses a distinct and unique genetic program, it is a life. Moreover, there is no question that this life is human: allowed to develop, it is not going to turn out to be a golden retriever. Barring natural disaster (as in miscarriage) or lethal interruption (as in abortion), the fetus will grow up to be what any sane person will recognize as a human child. No, the real issue is what is owed to this indisputable human life.

We cannot get around this, hard as we may try. But why should we try? The moral intuition that another human life is always involved in any decision to abort is the intuition that grounds Americans' rejection of abortion as a means of birth control. If we do anything to further coarsen that instinctive moral sense, it will be a dark and sad day for America: not only for the unborn, but for all those Americans—the elderly and the handicapped, in particular—whose lives might someday, be considered "inconvenient."

The American people also sense, intuitively, that Roe v. Wade was not a "liberal" decision; it was a reactionary decision. It did not expand the community of those for whom we accept a common responsibility; it drastically narrowed that community, by declaring an entire class of human beings, the unborn, as beyond the pale of our common concern.

The story of America is the story of an ever-widening and more inclusive community of care and mutual responsibility; we freed the slaves, enfranchised women, created social security, got rid of Jim Crow, made our public spaces accessible to the disabled—all in the name of enlarging the boundaries of the community for which we accepted a common responsibility. That was the storyline of America—until Roe v. Wade.

Thus the Republican defense of the right-to-life of the unborn is, in truth, an extension of our party's historic and originating commitment to human and civil rights. We cannot abandon that position; but we can certainly do a far more effective job of presenting our case. And by working with the governmental and private agencies, we can dramatically increase the visibility and availability of alternatives to abortion for women caught in the dilemma of unwanted or unplanned pregnancy.

In making our case more effectively, we have to challenge the disinformation campaign that has distorted the abortion debate for over twenty-five years. Americans need to know that ours is the most radical abortion regime in the Western world; no other nation—not even Sweden—has any arrangement like ours, in which abortion-on-demand, at any stage of pregnancy, and for any reason an abortionist is willing to construe as involving maternal "health," is considered a basic constitutional right. Americans need to know that "hard case" abortions—in the circumstances of rape, incest, grave fetal deformity, or direct threat to a mother's physical health—account for only 5 percent of the abortions performed in America today. Americans need to know that abortion is a big business—a $500 million/year industry, run primarily by men for their own aggrandizement and profit.

But we need more than arguments; we need to give far more visibility to the tremendous network of voluntary care that already exists to provide services to women in crisis. There are 4,000 crisis pregnancy centers in the United States today. What are we doing to make visible these and other alternatives to abortion? What are we doing to strengthen and extend that network of compassion and care, which is so powerful an expression of what is good about America? Is the best that the Republican Party can say to women in crisis, "Sure, go ahead, abort your child and we'll pay for it?"

I am confident that 1992 will increasingly be viewed as an electoral aberration: an election that was out-of-sync with the long-term course of public opinion. That long-term course is steady, and it is set in a conservative direction. The key planks in the platform of modern liberalism—secularism, the therapeutic society, the welfare state, the quota mentality, and moral license—have failed: and they are known to have failed, once you get beyond the fever swamps of New York, Cambridge, Massachusetts, and Hollywood.

Secularism has not answered the great and abiding questions of human life and purpose. The therapeutic society has blossomed side-by-side with an astonishing rise in criminal behavior. The welfare state has destroyed black communities and far too much of the black family. The quota mentality has set Americans against each other in unprecedented and ugly ways. And a decline in personal moral virtue has fed a decline in public moral responsibility.

The future belongs to those who defend economic freedom and growth; personal virtue, self-reliance, and civil responsibility; limited government; and the national security of a country that the overwhelming majority of Americans still believe is well worth defending. Put another way, the future belongs to conservatism. We must stop being ashamed of being thought of as the "conservative" party in America. Conservatism is the future: a conservatism of compassion and conviction, of strength and responsibility, of growth and prosperity.

One of the biggest straw men in this debate is that of the so-called litmus test—no one should have to take a litmus test to attain standing in the Republican Party, and I don't know of anybody requiring one! On the contrary, it is the Democratic Party that demands conformity to their abortion agenda—their radical pro-abortion platform was implemented by their outrageous undemocratic denial of any opportunity to Pennsylvania Governor Bob Casey to address their convention in New York last summer—because he is pro-life and the delegates could not abide hearing his remarks. I'm sure everyone knows the Democrats have unshamefacedly proclaimed a pro-abortion litmus test for any judicial nominee. At our convention in Houston, Lynn Martin, Nancy Johnson, Governor William Weld—all staunch and outspoken advocates of women's right to choose abortion—were prominently featured addressing us. It is axiomatic that any upwardly mobile Democrat must support the abortion ethic or political ostracism will follow. I say that's sad—and I want room in my party for all points of view—but I want the opportunity to debate my beliefs and advocate them freely in the fullest democratic spirit—and that can happen only in our party.

I'm proud to be a Republican. I'm proud of my party—we express the best that is in the American people—it would be a bitter irony, it would be a historic tragedy if some of us decided to change our party to a road-show version of the party that, in my opinion, has lost its way.

THANKING BARBARA CALABRESE GALLO FOR LONG AND DEDICATED SERVICE

Mr. WARNER. Mr. President, I rise today to thank a long-time staff member for almost 14 years of dedicated and loyal service.

Barbara Calabrese Gallo, a native of New Jersey and a graduate of Fairleigh Dickinson University, worked on my first campaign for the U.S. Senate in 1978. Shortly after I came to the Senate in 1979, Barbara became the first Republican woman Doorkeeper of the Senate. In March 1980, I asked Barbara to join my personal staff to handle all of my front office duties—a position that we all recognize as especially challenging. After 3 years, in February 1983, Barbara was promoted and became the legislative staff assistant to my national security assistant. She performed admirably in that position until October 1987, when she joined the staff of the Senate Armed Services Committee, where I served as ranking Republican member. Since then, Barbara has served as staff assistant to the deputy minority staff director of the committee.

Barbara has now accepted a position as a legislative affairs officer with the United States European Command Headquarters located in Stuttgart, Germany, the first civilian employee to occupy this position. This opportunity will allow Barbara to fulfill a longtime dream of living in Europe, and will permit her to be near her daughter, who recently married and relocated to Spain. It will also permit her to be closer to her beloved Italy, the homeland of her ancestors.

Barbara has long been active in Italian-American circles. She has served as trustee of the International Lodge of the Order of the Sons of Italy in America; as vice-chairman of the National Organization of Italian-American Women; and as a member of the National Italian-American Foundation.

Republicans in Virginia will sorely miss Barbara, for she devoted many of her off-duty hours working for Republican campaigns and the Republican Party. In the past, Barbara served as area chairman of the John Dalton for Governor campaign; area chairman of the FRANK WOLF for Congress campaign; Fairfax County coordinator of my first campaign for the Senate; a member of the Fairfax County Republican Club; the president of the Reston Republican Club; a member of the City of Alexandria Republican Committee; and as a volunteer in the Bush for President campaign.

On top of the long hours in the Senate, her activities with the Italian-American Community, and with the Republican Party, Barbara also found time to participate with the Alexandria Volunteer Bureau, the Art Deco Society, and the Little Theater of Alexandria.

Mr. President, I thank Barbara for her 14 years of dedicated service to the U.S. Senate and to this Senator. I wish her all the best in her new position in Europe, and in all her future endeavors.

BTU TAX IS BAD FOR SMALL BUSINESS AND AGRICULTURE

Mr. PRESSLER. Mr. President, the Btu tax is a b-a-d tax—bad for small business, bad for farmers and ranchers, bad for consumers, bad for States like South Dakota, and bad for the international competitiveness of our country. Mr. President, it's just plain bad.

How many other countries impose Btu taxes on their citizens? None. The reasons why are clear. The Btu tax is an administrative nightmare. It is self-defeating. In fact, some European nations dismissed a Btu tax because they feared it would hurt their international competitiveness.

Mr. President, if enacted, the Btu tax would fall directly on small business owners, farmers, and ranchers. Let me explain.

The Btu tax would make our businesses less competitive. This energy tax would increase operating costs for U.S. producers. As a result, our exports would become more expensive and less competitive. Fewer American goods sold abroad translates into less production at home. That means fewer new jobs and slower economic growth. Small businesses—especially those in the early stages of exporting—would be driven home and could be put out of business altogether.

This "Big Tax on 'U'" is estimated to cost our country as many as 610,000 jobs. The Tax Foundation estimates the job loss in my home State of South Dakota alone would be almost 1,200. There is absolutely no way job losses in small businesses can be avoided if the Btu tax is enacted.

Mr. President, over the years, I have found that one often must go beyond the Washington media to determine what the President is really thinking and saying. Take South Dakota as an example. The Sioux Falls Argus Leader, in an article titled "President Backpedals on Btu Tax," recently reported that President Clinton "is rethinking his proposed Btu tax, acknowledging that he didn't realize the impact it would have on the Nation's farmers." Let me repeat: He did not realize the impact his Btu tax would have on the Nation's farmers. How could the Btu tax not hurt farmers? Mr. President, I ask unanimous consent that two Argus Leader articles, together with a statement by the South Dakota Farmers Union, be printed in the RECORD at the conclusion of my remarks.

The Btu tax would be devastating for agriculture. According to South Dakota Agriculture Secretary Jay Swisher, the proposed Btu tax would cost the average farmer between $2,000 and $3,000. This tax would mean an 8.3 cents per gallon increase for diesel fuel, 2.3 cents per gallon for propane, 7.5 cents per gallon for gasoline, and a few more cents per kilowatt hour for electricity. This tax would come directly off the

bottom line for our farmers. It could not be passed on to others.

I hope my colleagues in the Senate and in the House—especially those from farm States—will join us in stripping this tax from the administration's tax package. As South Dakotans and other Americans learn more about this plan and the Btu—which some have dubbed "Beyond Tax Understanding"—tax, they are growing increasingly unhappy. My constituents, as well as those of many of my colleagues, are demanding that we reduce the deficit by cutting spending, not raising taxes—especially unfair taxes like the Btu tax.

In addition, Mr. President, this is a tax on consumers and the middle class. Most families pay more for energy indirectly through goods and services than directly in their utility and fuel bills. Once imposed, the Btu tax would be passed on throughout the production chain. Proponents argue that the Btu tax would be hidden from consumers. Consumers may not see this tax, but they would certainly feel it, from the gas station to the grocery store.

The American people should be aware that the looming danger from this type of stealth tax is immense. It attempts to shield the true costs of government spending from the radar screen. If left undetected, it would allow the tax-and-spend ways of Congress to continue. The Btu tax is indexed for inflation and will increase automatically each year.

Even worse, future hikes in the Btu tax above the indexing could easily be pushed through Congress. After all, hidden taxes are easy to increase. How many more tax increases can our economy withstand? Spending cuts are hard to make, but they are absolutely necessary. We must make tough choices.

As Paul Merski, an economist with Citizens for a Sound Economy has said, "For the majority of American families already stretching their budgets, the higher prices, lower wages, and increased danger of job loss associated with President Clinton's proposed Btu tax would mean a tougher struggle to maintain their standard of living. Imposing new taxes of any kind will only drain the energy from working families and the economy." Mr. Merski is absolutely correct.

Mr. President, I cannot think of a single good thing to say about the Btu tax, with the possible exception that it is unique and creative. As I mentioned, no other country in the world imposes such a tax. However, creativity would be better applied to finding ways to cut Government spending—not creating new ways to pick our taxpayers' pockets. Let us focus our attention in that direction. Let us kill the Btu tax before it kills America's economic growth.

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

WIESE SAYS OVER-TAXED FARMERS CAN'T AFFORD BTU TAX

HURON.—South Dakota family farmers are already over-taxed and cannot afford the additional burden of President Bill Clinton's proposed Btu tax, according to Acting Farmers Union President Dennis Wiese.

"South Dakota farmers and ranchers have already been hit with huge increases in property taxes," Wiese said. "We simply cannot afford the additional costs now estimated for the Btu tax."

The South Dakota farm leader cited recent estimates that the Btu tax would reduce net farm income by about $2,400 per year on a typical 600-acre farm in southeast South Dakota.

"We are already faced with grain prices that are dramatically reduced from a year ago and continuing adverse weather conditions," Wiese said. Wiese noted that the U.S. Department of Agriculture has estimated 1993 net farm income will be $42 to $48 billion, down from $51 billion in 1992. That is a 17 per cent drop in income combined with an estimated 2 per cent increase in farm input costs.

"President Clinton has spoken again and again on the importance of establishing a more progressive tax system and of creating more tax fairness," Wiese said. "There is simply no way that the Btu tax can be reconciled with that philosophy."

"Like all Americans, South Dakota family farmers and ranchers are willing to participate in shared sacrifice to reduce the federal budget deficit," Wiese said. "However, the key word is shared. The Btu tax asks far more sacrifice from agriculture than from other segments of the economy."

Wiese said he is concerned that the media, government and the public are losing their appreciation for the role of family agriculture within the U.S. economy. "We have to change that," he concluded.

[From the Sioux Falls Argus Leader, Apr. 13, 1993]

ENERGY TAX COULD SOAK FARMERS

(By Randy Hascall)

VERMILLION.—President Clinton's proposed energy tax could cost a typical farmer in southeast South Dakota more than $2,400 a year.

Ron Thaden, Clay County extension agent, said the added cost might force some farmers to quit.

"Eventually, it's going to catch up to them," Thaden said. "I think it will really be serious for a lot of operations. They won't be able to meet costs, and they'll have to quit."

Thaden, South Dakota State University economics professor Don Peterson and Clay-Union Electric Manager Paul Roberts have projected the effect the energy tax would have on a 600-acre farm in Clay County.

The analysis addresses costs for fuel, fertilizer, herbicide, grain drying, utilities, transportation and interest. Clinton's proposal is subject to congressional changes and approval.

Roberts said he believes Clinton wants a fair distribution of taxes, but the energy tax places a heavy burden on farmers.

In addition to increased production costs, farmers could expect lower market prices, Roberts said. He said grain elevators would have to pay higher shipping costs and would pass those expenses on to farmers.

And the analysis doesn't include increases in light bills or irrigation, he said.

The proposed tax is a big concern to Vermillion farmer Robert Gilbertson.

"It's quite an astounding amount," Gilbertson said. "A user tax is tough when your living depends on it."

Gilbertson said he has taken cost-cutting steps in recent years and has reduced tillage.

"We've changed our operation drastically the last five to 10 years." he said. "There's really not an avenue left to change now."

Gilbertson said he can't afford expensive equipment necessary to reduce tillage further.

Extension agent Thaden said that even those farmers who can reduce their tillage would escape only a small portion of the increased costs. Their increase on an acre of corn might be $5.30 instead of $5.88, he said.

Thaden said most farmers don't realize how much the tax plan would cost them in its present form. Clinton wants the tax phased in over several years.

Greg Peton, sales manager of Vermillion Fertilizer, said production costs of ammonia would increase, and they'd be passed on to farmers. Depending on the final plan, farmers could pay from $3.26 to $16 a ton more for ammonia. An average farmer applies about 50 tons of fertilizer to 300 acres of corn and more than 22 tons to 300 acres of soybeans.

"Farmers would be hit twice and that's just with an energy tax." Peton said. Petroleum products in herbicide would boost those costs and tractor fuel costs also would increase.

Vermillion farmer Mark Nelson said the tax isn't fair.

"We've tried to do our share," Nelson said. "There's such a fine line on farming profit as it is. So many costs are predetermined—herbicide, fertilizer, utilities—that there's not much we can do"

ENERGY TAX IMPACT

This is an estimate of the impact the Clinton administration's proposed fuel tax would have in its third year of phase-in on a typical 600-acre farm in southeast South Dakota.

Cost/acre	Corn	Beans	Alfalfa
Fuel	$1.21	$1.00	$1.59
Fertilizer	$1.35	$0.29	$0.72
Herbicide	$1.97	$1.11	$0.17
Drying	$0.67	$1.00	$0.00
Utilities	$0.07	$0.02	$0.02
Interest	$0.42	$0.19	$0.20
Transportation	$0.19	$0.09	$0.40
Impact/acre	$5.88	$2.70	$3.10
Acres	260	285	55
Impact/crop	$1,529	$770	$171

Source: Don Peterson, SDSU; Ron Thaden Clay County Extension Office; Paul Roberts, Clay-Union Electric. Based on yields of: corn, 100 bu.; soybeans, 40 bu.; hay, 5 O.T.

[From the Sioux Falls (SD) Argus Leader, May 12, 1993]

PRESIDENT BACKPEDALS ON BTU TAX

(By David Kranz)

BENSENVILLE, ILL.—President Clinton said Tuesday that he is rethinking his proposed BTU tax, acknowledging that he didn't realize the impact it would have on the nation's farmers.

South Dakota farmers have called the proposed a killer that taxes energy content of oil, coal and electricity based on energy content. They said it could drive them out of business. State farmers say the price for their crops compared with the cost of production would no longer yield a profit.

It would increase the farmer's cost for gasoline, diesel fuel, heating oil, grease and oil.

Clinton also said he was looking at the Indian gaming issue that has brought some controversy in South Dakota and other states, but made no commitments other than to direct a study of the federal laws that govern what is rapidly increasing economic growth for reservation communities.

He said some regulatory changes may be needed, but gave no indication that he was in favor of curtailing or seriously limiting the activity.

The president made the comments during a press conference with five writers from South Dakota and North Dakota, following a speech on education to 2,000 students and guests at Fenton High School in Bensenville.

"What we need to do is look at all elements of this program . . . so this thing does not fall unevenly on anybody," Clinton said.

A solution that could lighten the impact of the BTU tax according to the president, might be changing the expensing provisions of the tax code.

"We had to do something dramatic early to be serious about reducing the deficit. It not only had to work, but it had to be deemed to be working by the financal community to try to get interest rates down," Clinton said.

Three things were necessary in weighing deficit reduction if it were to have credibility, he said. They included specific spending cuts rather than proposed caps; a reversal of the 1980s, where taxes were lowered on wealthy people and raised on the middle class; third, an energy tax because the United States taxes energy at a lower level than other countries.

But Clinton admits that he is worried about the impact to agriculture.

"Now, I'm very concerned about the farmers. I come from a state with a lot of farmers. This issue never came up in this way, believe it or not, even though we had a lot of people sit around the table from farm states before we put this package together," the president said.

He said the carbon tax on the burning of fossil fuel, which would have an impact on power plants, was discarded because they thought that it was unfair to the coal-producing states. Those from northern areas favored a gas tax because of how high gas taxes are in every other country. That was discarded because of the impact on rural people west of the Mississippi, he said.

Clinton said he thought the BTU tax would benefit the nation's environmental policy most with the broadest base.

"I think the thing that missed everybody's attention was that agriculture was exempt from the other energy taxes, primarily the gas tax. So it came as a full hit on agriculture."

Talks have begun with administration officials and rural state congressional delegations about other avenues to explore in place of the BTU tax, Clinton said.

"I'm committed to the whole congressional delegation from both these states, that we continue to work on it. We are going to try to get it intact without having a big session. We are struggling for a way to help agriculture without just creating an exemption and a tax which might cause it to fall because then you have people from other parts of the country that will be saying, 'Give me an exemption.' The last thing we want to do is accelerate the decline of the family farm."

On the gaming issue, Clinton said Bruce Babbitt, his interior secretary, is evaluating the impact of changes in federal laws on Indian gambling. He said there is some support from governors to limit or eliminate the laws.

"A lot of people are quite unhappy and some governors are very concerned," he said.

"The fear is that, if Indian gaming were broadened, they would have no choice but to open up gaming."

The president said he was inclined toward some legislation by Congress to determine what the balance of forces should be.

"Gambling is not an unmixed blessing because it is rooted in the idea that you can get something for nothing, but you can't. As long as it's confined and it's limited and we are all having a lot of fun and nobody is under any illusion, I don't know that it does too much harm to society. But it can never be the central basis for which you build economic self-sufficiency," Clinton said.

He also said gambling does not communicate the right values.

"Philosophically I don't have much objection to some modest expansion of this, but I don't believe that this can or should be seen as a salvation of the Indian tribes."

Clinton admitted that he didn't have a great knowledge about South and North Dakota, but some of the nation's worries, like health care, have a major impact on this region, and he said he would take care not to let them fall through the cracks because of their small population.

CONCERNING THE PAPERS OF ASSOCIATE JUSTICE THURGOOD MARSHALL

Mr. PRESSLER. Mr. President, I have been watching with great interest the news reports this week concerning our Library of Congress and the papers of the late Justice Thurgood Marshall. Although the debate has focused on what some refer to as the Library's abuse of discretion, I think it is time to remind ourselves of the Library's responsibility to its donors and to researchers.

In the first place, the Library has no real discretion regarding the Justice's papers. What the Library has is a contract with the late Justice that must be honored. Although I can understand and sympathize with those who want to protect the late Justice and the Supreme Court of the United States, I cannot believe that anyone would ask the Library to ignore its duty to Justice Marshall in order to save others from possible embarrassment.

In the stories I have seen in the press, there are many who say that they know what Justice Marshall really wanted when he donated his papers to the Library. Although the anecdotes recounted are interesting, they are hardly proof of the Justice's wishes regarding access to his papers. The Library, on the other hand, has provided exhaustive documentary and other evidence of its negotiations with Justice Marshall, as well as the recollections of the Librarian of Congress and two other Library officials who attended the October 1991 meeting at which Justice Marshall agreed to donate his papers to the Library.

Incredibly, a number of the Library's critics also have suggested that Library officials should allow only certain types of researchers to have access to the papers. Who would these approved researchers be? The suggestions of critics do not tell us that; rather, they tell us only what they would not be: journalists and lawyers. Can we ask librarians in the Manuscript Reading Room to decide which citizens will be allowed to consult the papers of Washington, Jefferson, Lincoln, countless former Members of Congress, and Federal judges? Would we in the U.S. Senate approve of our Library making such distinctions? I think not.

I urge my colleagues to think carefully about the issues that have been aired so publicly in the press. This is no time to let our sympathy make us shirk our responsibilities to the right of American citizens to free access to information.

Mr. President, I ask unanimous consent that the following items appear in the RECORD as part of my statement: a factsheet on access to Thurgood Marshall's papers; the instrument of gift whereby Justice Marshall's papers were given to the Library of Congress; a chronology of the accession of Justice Marshall's papers; a summary overview of other Supreme Court papers for which unrestricted access has been permitted; and a statement of the Librarian of Congress yesterday on this entire matter.

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

FACTSHEET—ACCESS TO THURGOOD MARSHALL'S PAPERS

Five different issues are raised by William Coleman and others who urge the closing of access of Marshall's papers.

1. That the Library is not following typical practice in the administration of these papers.

Fact: We have followed typical practice. The typical practice is to confer with donors to determine their wishes, and incorporate those wishes into the instrument of gift. The result of this practice varies, as individuals have stipulated different types of access. (Attachment 1)

2. That unrestricted access to the papers was not the intention of Marshall.

Fact: Marshall agreed to unrestricted access to researchers after his death, and to limited access, with his permission, during his lifetime. He made his intentions clear at his meeting with Billington, Wigdor and Ham; he reviewed the instrument of gift; he made no revisions and returned this document signed. (Attachment 2)

3. That allowing journalists access to the papers is not consonant with the agreement, because journalists are not "researchers or scholars engaged in serious research."

Fact: "Researchers or scholars" are understood to be those who have a specific research project, often leading to publication. Manuscript Division collections are not open to the general public—e.g., undergraduates and tourists just wanting to look at famous documents. Coleman's position "that no journalist can have a serious purpose is simply untenable. (Attachment 3)

4. That open access by researchers and scholars to the Marshall papers will jeopardize LC's ability to collect the private papers of public figures in the future.

Fact: The Library has no choice but to comply with the terms of the agreement. The fact that LC does comply, in this case as scrupulously as in all other cases despite the unwanted publicity it has caused, is in fact the best possible argument for a donor to feel that his or her wishes will be carried to the letter.

5. That Dr. Billington made assurances to Justice Marshall that only scholars would have access to his papers.

Fact: Neither the Librarian nor any other official from the Library made such an assurance.

INSTRUMENT OF GIFT

I, Thurgood Marshall (hereinafter: Donor), hereby give, grant, convey title in and set over to the United States of America for inclusion in the collections of the Library of Congress (hereinafter: Library), and for administration therein by the authorities thereof, a collection of my personal and professional papers, more particularly described on the attached schedule.

I hereby dedicate to the public all rights, including copyrights throughout the world, that I may possess in the Collection.

The papers constituting this gift shall be subject to the conditions hereinafter enumerated:

1. Access. With the exception that the entire Collection shall be at all times be available to the staff of the Library for administrative purposes, access to the Collection during my lifetime is restricted to me and to others only with my written permission. Thereafter, the Collection shall be made available to the public at the discretion of the Library.

2. Use. Use of the materials constituting this gift shall be limited to private study on the premises of the Library by researchers or scholars engaged in serious research.

3. Reproduction. Persons granted access to the Collection may obtain single-copy reproductions of the unpublished writings contained therein.

4. Additions. Such other and related materials as the Donor may from time to time donate to the United States of America for inclusion in the collections of the Library shall be governed by the terms of this Instrument of Gift or such written amendments as may hereafter be agreed upon between the Donor and the Library.

5. Disposal. It is agreed that should any part of the Collection hereinabove described be found to include material which the Library deems inappropriate for permanent retention with the Collection or for transfer to other collections in the Library, the Library may dispose of those materials in accordance with its procedures for the disposition of materials not needed for the Library's collections.

In witness whereof, I have hereunto set my hand and seal this 24th day of October, 1991, in the city of Washington, DC.

THURGOOD MARSHALL.

Accepted for the United States of America.

JAMES H. BILLINGTON,
The Librarian of Congress.

NOVEMBER 8, 1991.

ACCESSION OF JUSTICE THURGOOD MARSHALL'S PAPERS

CHRONOLOGY

Jan. 29, 1965: First request for Judge Marshall's papers from David Mearns, Chief, Manuscript Division

Feb. 8, 1965: Marshall responds "I have no personal papers. They all remained in the files of the N.A.A.C.P. and the N.A.A.C.P. Legal Defense and Educational Fund, Inc."

Oct. 4, 1977: Another LC Solicitation, from John Broderick, Chief, Manuscript Division says "Mutually acceptable restrictions may, of course, be placed upon the use of a collection."

July 2, 1991: JHB's solicitation after Justice Marshall first announces his retirement

July 22, 1991: Justice Marshall writes JHB "I contemplate leaving my papers to the Library of Congress when I finally retire."

Sept. 4, 1991: JHB writes Marshall thanking him for news of July 22 and inviting him to lunch

Oct. 7, 1991: JHB, D. Wigdor, D. Newman Ham visit Justice Marshall in his chambers. Justice Marshall tells group that his papers will be available with his permission during his lifetime and after his death without restrictions.

Oct. 21, 1991: JHB letter to Marshall forwarding instrument of gift, "we will be happy to discuss any revisions you wish to propose. If it is satisfactory in its current form, simply sign and return. . . ."

Oct. 24, 1991: Justice Marshall signs instrument of gift, with no changes, donating papers to the Library

Dec. 1991-Jan. 1992: Marshall's Papers, initially 147,800 items (eventually 173,700), arrive at Library of Congress

Feb. 27, 1992: JHB letter to Marshall returning the completed Instrument of Gift, thanking him again and saying we "are certain that researchers visiting the Library of Congress to use them through ensuing generations will agree that these papers embody the life and career of an American ceaselessly at work toward his ideal of a just society."

June 3, 1992: Processing begins on Marshall's Papers

June 30, 1992: Hutson letters to Marshall and other justices asking them to review and approve staff essays about their papers for publication in 1991 Acquisitions Report

July 8, 1992: McHale calls Janice Ruth (Manuscript Div) to say Marshall "is pleased with it—no problem—no changes needed"

July 6-15, 1992: Other justices indicate reluctance to Ruth about publication of essays relating to their holdings; Manuscript Division decides not to publish them

Sept. 30, 1992: Processing completed; shortly thereafter, Ham calls McHale to report that papers are ready for use

Jan. 24, 1993: Marshall's death; his papers become available to researchers

Feb. 2, 1993: First researcher uses papers (6 researchers use papers Feb-April; Post researcher begins research May 5)

Feb. 23, 1993: JHB letter to Mrs. Marshall following his attendance at Marshall's funeral, expressing condolences, asking her to visit LC and see how we processed the collection, asking for donation of additional material and enclosing a copy of the Manuscript Div 1991 acquisitions report describing our Marshall holdings

There were no conversations between Library staff and Marshall and his staff between October 7, 1991, and October 21, 1991. The Library staff members who attended the October 7, 1991, meeting with Marshall are very clear that he wanted his papers open to researchers upon his death. We received no requests for access to Justice Marshall's papers during his lifetime. We do not know whether any such requests were directed to the Justice personally.

ACCESS TO THE PAPERS OF SUPREME COURT JUSTICES

COLLECTIONS WITH UNRESTRICTED ACCESS AFTER THE DEATH OF THE JUSTICE

Burton—researchers could have access to his papers during his lifetime with his permission; after death, access became unlimited

Douglas—materials received during his lifetime by the Library where made immediately available to researchers after his death; additions to the collection received through bequest were available without restrictions after five years

Goldberg—access unrestricted from the moment of receipt on deposit by Library, even during Goldberg's life. Goldberg established an automatic conversion to a gift on the first anniversary of the deposit.

Marshall—access to collection with permission during his lifetime; after his death, open access

COLLECTIONS WITH RESTRICTIONS AFTER THE DEATH OF THE JUSTICE

Black—(donated by heirs, 1973) access to "entire collection" and publication with permission of executors (intent seems more to protect intangible rights that to withhold for other reasons)—access to "files of the Supreme Court. . ." until death or retirement, whichever first, of other participating justices or justices active on Court at time case decided

Brennan—access to "legal files" and "correspondence" with permission of the donor, then unrestricted access after his death—"personal annual review of the team's work" closed during his lifetime & the lifetime of the other justices who participated in the decisions

Frankfurter—access closed for 16 years from the date of "each paper"

Jackson—(donated by heirs in 1984)—access with permission for 5 years after the date of the instrument of gift, then unrestricted access

O'Connor—access with permission during her lifetime, then unrestricted, except for case files which are closed as long as any participating justice continues to serve on the Court

Rutledge—(donated by his wife in 1980)—open immediately upon her gift

Stone—(donated by his wife in 1949)—access with permission of his widow or children between 1949 and 1975, then unrestricted

Warren—while papers were on deposit, access was granted with permission of the Justice; the terms of his will stipulated that the papers would be closed for ten years after his death

White—access with his permission during his lifetime; open "to the public" ten years after his death

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STATEMENT BY JAMES H. BILLINGTON, THE LIBRARIAN OF CONGRESS, CONCERNING THE PAPERS OF ASSOCIATE JUSTICE THURGOOD MARSHALL, MAY 26, 1993

We were surprised and distressed by the concerns voiced by the Marshall family, Chief Justice Rehnquist, the Hon. William Coleman, and others over the opening of the papers of the late Thurgood Marshall, Associate Justice of the Supreme Court and a giant figure in the history of the civil rights struggle.

I have met today with the Marshall family, the Chief Justice, and Mr. Coleman to discuss their concerns, review the Library's discussion and correspondence with Justice Marshall, and explain the Library's guiding philosophy on access to its collections.

We have conducted a thorough review of our internal documents and dealings with Justice Marshall. We remain confident that, we are carrying out his exact intentions in opening access to his papers after his death on January 24.

In so doing, we have followed traditional library practice of strict adherence to the donor's explicit instructions. This has been our practice with collections left to the Library by all donors, including twelve other recent justices of the Supreme Court. To do

otherwise is a breach of contract and a violation of the trust placed in the Library by the donor.

Requests in the wake of recent articles to impose additional restrictions on Justice Marshall's papers run counter both to this basic principle of custodianship and to Justice Marshall's expressed intentions to us. We have the greatest sympathy for Chief Justice Rehnquist, Justice Marshall's family, and others who have voiced concern. But the Library must honor the expressed wishes of one of our great jurists. Open access to the papers, as called for in Justice Marshall's instrument of gift, must be maintained.

Crucial to a free and democratic society is open access to information, limited only by formal secrecy classification and by specific restrictions laid down by the donors of papers.

In the case of Justice Marshall, following his death, the use of the papers "is limited to private study on the premises of the Library by researchers or scholars engaged in serious research."

One of the concerns that has been raised is that journalists ought not to be considered researchers. The term "researchers," under Library policy, has always referred to adults working on specific research projects, be they authors, journalists, or lawyers. Justice Marshall was aware that journalists used Library manuscript collections; indeed, during our meeting on his papers in October 1991, he mentioned with approval to me a particular book by a journalist on a fellow Supreme Court justice using his papers in the Library.

All who seek to use the Marshall papers—or any other open papers in the Library's manuscript collection—must register, present a photo I.D., state their names, addresses, institutional affiliations, and their research projects. Casual tourists and high school students are turned away. Undergraduates are normally encouraged to go elsewhere, although any adult may use the Library's general collections.

There has been some confusion over the "discretion" allowed to the Library under the terms of Justice Marshall's Instrument of Gift, signed October 24, 1991. As in the case of other collections, the "discretion" sought and obtained by the Library involved only the technical determination by our archival staff of when the papers were organized and ready for use. It is an abuse of such "discretion" to impose restrictions on access other than those proposed by the donor.

Under the Instrument, his papers were to be made available during his lifetime to researchers "only with my written permission." After his death, "the collection shall be made available to the public at the discretion of the Library."

Justice Marshall was quite clear in his meeting with me and other Library specialists earlier that month that he wanted his papers to be opened upon his death. he and we, of course, did not know when that would be.

Justice Marshall had ample opportunity to add restrictions if he so chose. In my letter of October 21 forwarding the Instrument of Gift to Justice Marshall for his signature, I wrote: "We will be happy to discuss any revisions you wish to propose." He proposed none. He signed the Instrument of Gift with no changes on October 24.

The restrictions placed by Supreme Court justices on access to their papers have varied with the individual. Justice Marshall is not the first Justice to ask that his papers be opened immediately following his death. Associate Justice Burton gave unlimited access after his death. Associate Justice Douglas permitted major portions of his papers to be made available immediately on his death. Associate Justice Goldberg allowed his papers to be open during his lifetime (but after he left the Court). Justice White's Instrument of Gift allows access to individual researchers with his permission during his lifetime, then no access for ten years. Chief Justice Warren allowed no access to his papers until 1985.

Some have argued that opening Justice Marshall's papers now threatens the privacy of Supreme Court deliberations. The Library does not hold itself above the law; it obeys Federal document classification edicts and follows the restrictions imposed by donors of papers. We have nothing but respect for the Court and its members. But we cannot serve as the Court's watchdog. In the recent past, as is well known, outside the Library of Congress, both journalists and scholars have gained access to Supreme Court documents and produced articles and books on its deliberations. We are surprised to have the Library of Congress called upon to enforce a tradition of confidentiality which the Court itself has yet clearly to establish.

In the case of Justice Marshall, the Library has sought his papers since 1965, even before he was appointed to the court. On July 2, 1991, after Justice Marshall announced his impending retirement, we again wrote him asking him to donate his papers to the Library of Congress.

In a letter on July 22, 1991, Justice Marshall said he was considering the Library's invitation.

On October 7, 1991, David Wigdor, assistant chief of the Manuscript Division, Debra Newman Ham, the Manuscript Division's specialist in African-American history, and I met with Justice Marshall in his chambers. The Justice set the agenda. He was fully in charge and clearly told us to make his papers accessible after his death. There was no extended discussion of various options or restrictions, although we discussed how restricted access would be provided during his lifetime and how security classified materials from his service as Solicitor General would be protected. The Justice accepted a suggestion by David Wigdor that during Marshall's lifetime the papers would be available to researchers with his written permission—a common provision.

On October 21, I sent Justice Marshall an Instrument of Gift, with a covering letter. In that letter I wrote that we would "be happy to discuss any revisions you wish to propose. If it is satisfactory in its current form, simply sign and return both copies to me."

Justice Marshall proposed no revisions. He signed the Instrument of Gift unchanged on October 24 and sent it back to me.

In December, 1991, we began moving Justice Marshall's papers—173,000 items in all—to the Library. Processing them began in June 1992 and was completed last September. On June 30, 1992, we sent a draft to Justice Marshall of an essay describing his papers—an essay destined for the Library's 1991 Acquisitions Report—asking for comments or corrections. On July 8, 1992, his assistant, Janet McHale, called the Library to say that Justice Marshall was pleased with the essay and welcomed its publication which was in effect an invitation to use his papers.

The Library received no requests to use the Marshall papers during the Justice's lifetime. On January 24, 1993, Justice Marshall died, a towering figure mourned by the nation. Dr. Hamm and I were among those who attended the memorial service in the National Cathedral. In accordance with his wishes, his papers were opened. (By May 5, when a Washington Post reporter arrived, six researchers had already used the collection.) On February 23, 1993, I wrote to Mrs. Marshall, expressing my sympathy, asking her to visit the Library and the Marshall collection.

Restricting or suspending access to the Marshall papers now would cast doubt on the Library's ability to carry out the instructions of a deceased donor. In the public interest, and in accordance with the expressed intent of one of our great jurists, we cannot in good faith suspend or otherwise restrict access to the Marshall papers as some have requested.

We remain confident that we are complying with Justice Marshall's intentions regarding access to his papers. We are deeply concerned that the language of the Instrument of Gift may have been misunderstood by some. I have therefore directed Library staff to develop language for use in subsequent Instruments to reexamine access policies and ensure that future donor's intentions are not subject to any misinterpretation outside the Library.

We are genuinely sorry that we cannot accommodate the desire of many good people to restrict access to his collection. No desire to do so or countervailing view of Justice Marshall's intentions was communicated to the Library before the press articles. We particularly sympathize with the concerns that have since been expressed to me by the family and by many in the judiciary system about what has appeared in the press.

RELEASE OF PAPERS OF ASSOCIATE JUSTICE THURGOOD MARSHALL

Mr. METZENBAUM. Mr. President, I wish to address briefly the controversy which surrounds the release of the papers of the late Justice Thurgood Marshall.

It is regrettable to me personally that the release of this remarkable and historically important collection has caused a dispute between two parties for whom I have the greatest respect and admiration—the members of the Marshall family and the Librarian of Congress, James Billington.

Mr. Billington and the Library have also come under criticism from both Chief Justice Rehnquist and former Chief Justice Burger. Mr. Billington has been accused of bad judgment and flagrant abuse in this instance. I know Jim Billington to be an historian with an impeccable sense of propriety, and a true dedication to the mission of the Library of Congress. I know his actions to be in good faith, and mindful of the concerns expressed by all parties.

Justice Rehnquist and former Justice Burger also contend that making available Justice Marshall's papers at this point in time causes serious damage to the Court and somehow violates the confidentiality of the deliberations. On that point, I take issue with the critics. Indeed, in the cases of Justices Burton, Douglas, and Goldberg, access to their papers was granted immediately upon their deaths. In Gold-

berg's case, access was unrestricted even during his lifetime.

And, in fact, I believe the Marshall papers reflect well upon the High Court and its Justices. The reports I have read based on the papers inspire confidence in the serious and thoughtful deliberations undertaken by members of the Court and its clerks. They show the Justices to be human beings with strong opinions, great intellect, good humor, and an admirable work ethic. It is my opinion that Americans reading the contents of these papers will come away with a great sense of pride in the highest court in our judicial system.

Any documents which can bring about that result are clearly a benefit to the public interest.

Moreover, in an era in which many of the great public figures of our time have been tarnished by historians and revisionists, the papers serve to reinforce the legacy of one of the true giants of this century—Thurgood Marshall. His private writings do nothing but enhance his statute as a voice for the less fortunate, and as a fighter for social justice. His papers remind me how badly he is missed.

TRIBUTE TO KENNETH S. APFEL, ASSISTANT SECRETARY OF MANAGEMENT AND BUDGET AT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. BRADLEY. Mr. President, I rise today to offer my congratulations to Ken Apfel, who was sworn in yesterday as the Assistant Secretary for Management and Budget at the Department of Health and Human Services. I cannot imagine a better choice than Ken to serve President Clinton and the people of this country in that position.

Ken Apfel began his career in the Senate as a staff member of the Senate Budget Committee in 1980. He joined my office in 1982, and as a legislative assistant, and, later, as legislative director, played a key role in shaping legislation in many areas of social policy, including infant mortality, home and community care for the elderly and disabled, welfare reform, child support enforcement, and education.

But, Mr. President, Ken's contributions to my office and this body extend well beyond these initiatives. He has command of the academic literature in terms of social and health policy. He has encyclopedic knowledge of the budget and budget process. He has a sensitive awareness of how laws are passed and how human that process is. He understands how important it is to have relationships of confidence and trust, even with those you may disagree with. And with his pragmatism, genuineness, and keen political judgment, he has engendered trust and respect throughout this institution.

Mr. President, I believe this country is lucky to have Ken Apfel serving in this administration. He is someone who truly embodies the term public servant—someone who derives deep satisfaction from being involved with serving the public through actions of government; from doing something that improves the quality of life for people in this country. He is very dedicated to this mission.

In summary, Mr. President, we will miss Ken—his warmth and good humor, his steadiness, his unerring judgment. But my loss is truly the country's gain. I congratulate Ken, Caroline, Derek, and Dana, and wish them well on their new journey.

BILL ALLEY, EXCEPTIONAL VERMONTER

Mr. LEAHY. Mr. President, one of the advantages of representing a small State is that you get to know so many of the people who make our State special.

I first met Bill Alley on an airplane flying back to Vermont from Washington, and have had the chance of talking with him on numerous occasions, and seeing the results of his genius ranging from artificial limbs to some of the most beautiful fly rods anywhere.

Recently he was profiled by a local newspaper and I ask to include that in the CONGRESSIONAL RECORD so other Senators and those who read the RECORD will know of the kind of exceptional people we have in Vermont.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Free Press, May 17, 1993]

WHETHER THROWING AROUND A JAVELIN OR IDEAS, INVENTOR PUTS OUT OLYMPIC-SIZE EFFORT

(By Andrea Zentz)

A former U.S. Olympian is finding challenges in the world of entrepreneurship as an inventor.

Bill Alley, 56, a member of the 1960 U.S. Olympic Team, doesn't like to dwell on the past. With some prodding, he'll admit, "OK, I was a three-time all-American and set a world record in javelin in track and field." And he is still running strong. But it's not a track that he's traversing. It's the competitive world of business that challenges him. It is the adventure of tomorrow that piques his creative juices.

Ask Alley about the future, and he perks up. He clearly has his sights set on tomorrow.

And why not? As his late father, Francis Alley, told him, "If what you did yesterday seems great, you haven't done much today."

The advice seems to have a grip on Alley. His life has been punctuated with accomplishments.

The Stowe resident, who was Vermont's Businessman of the Year in 1976, has a portfolio of inventions that includes a blood pump used in kidney dialysis machines, an artificial heart, an arrow shaft that set the world record in distance in the mid-'70s, a wind gauge used in Olympic Games since 1968, a giant Polaroid camera, carbon fiber tennis rackets and ski poles. He even invented a graphite bicycle used in the 1975 Olympics, a gaggle of fishing fly rods, a drive shaft and airplane landing gear.

He uses carbon fiber, a lightweight but sturdy material, for most of his inventions. He also uses good old common sense.

He says that he often gets his ideas from the strangest places. For example, take the time he tried designing a fly rod for the president of Union Carbide. He had difficulty with the design and found the solution in a dream. He is never at a loss for ideas.

But Alley tries to remain inconspicuous about his projects and the tedious process of turning theory into reality. He is a quiet mover.

Trish Alley says her husband does not like to draw attention to himself, but he finds a lot of satisfaction in his work.

"I think it's because when he was an athlete, a lot of people wanted to be associated with him because of the things he did, not because of who he is," she said.

Much of his professional inspiration comes from family. Alley takes his father's advice seriously and still is setting goals. "I've always had this desire to make a contribution to medicine," he said. "I'd like to help young people become more mobile through the development of artificial arms and legs."

John Fago of Bethel is the latest beneficiary of Alley's artificial limbs.

"It was the first time since I lost my leg that I didn't need to use a cane, that the leg was really working for me," said Fago, who supplies prostheses to people throughout the world.

Fago can't laud Alley with enough accolades. "He took stuff he learned in redesigning the javelin, fishing poles, truck springs and applied it to a specific problem. . . . He loves a problem. You can tell he's someone who has solved an awful lot of them in his life."

Alley, who has schooling in orthopedic surgery and mechanical engineering, said his academic background nurtured his interest in helping people become mobile. He became attracted to the idea when he was an athlete visiting children's hospitals. His athletic career opened doors, getting him past the "who are you?" hurdles, he said.

"He's a genius when it comes to inventions," said Garry Michaud of Research Engineering. "It's just something working for the guy because he can think up anything and we get to make it, and it's fun."

Michaud said Alley requires perfection and gets it because of the way he treats his eight employees at Research Engineering in Morrisville. Alley also employs two other people at The Fly Rod Shop in Stowe.

"He takes every individual who works for him and he tries to instill in them a little pride," Michaud said.

Alley moved from New Jersey to Vermont in 1969 to start a business. He selected New England because he said business startup costs are lower. "It was an area where you could work hard, and the results of your work would show, whereas in a more populated area you'd be competing with anybody and everybody."

The self-made entrepreneur says the secret to his success is good timing and hard work.

"I think that's part of how people get ahead . . . because you walk the extra mile."

Taking that incremental step to business perfection is nowhere more apparent than with his latest inventions. He's building a machine to assemble a miniature part for a hearing aid that will eliminate background noises. He also just designed a walking stick that transfers vibrations from the stick to the fingers of visually impaired people.

THE ALLEY FILE

Name: Bill Alley
Age: 56
Occupation: inventor
Education: master's degree in mechanical engineering, 1961, University of Kansas
Family: wife, Trish Alley; a daughter and a son
Hobbies: sailing, traveling, flying model airplanes, collecting grandfather clocks, building wood furniture

REGARDING AMENDMENT NO. 375

Mr. MCCAIN. Mr. President, I would like to elaborate on a discussion the distinguished manager of the bill for the majority and I had regarding my amendment, No. 375, which would prohibit Members from using campaign funds for inherently personal purposes. As I previously noted, the amendment prohibits Members from using campaign contributions for such things as home mortgage loans, rental of living quarters, clothing purchases, noncampaign automobile expenses, country club memberships, and vacations or other trips which are not directly related to the campaign.

The senior Senator from Oklahoma inquired as to whether the term "campaign expense" might include the use of excess campaign funds to enable spouses to accompany certain public events, although the event may not be within the 2-year election cycle?

As I indicated, I believe that when people elect a Member of Congress, they are also electing a spouse, because they are really part of a team. Therefore, I agree with my friend that it would not be inappropriate for campaign funds to be used to enable a spouse to attend certain public events, such as a fundraiser or otherwise campaign-related, even though such an event might not be within the 2-year election cycle.

I want to emphasize, however, that campaign funds could not be used in the kind of abusive manner previously cited, by either the Member or their spouse for vacations or foreign travel, for example. While some Members may be able to contrive a contorted explanation why $327 for dinner in Paris is a campaign expense, I don't think the American people would buy it, and my amendment would not permit it.

My friend also inquired as to whether excess campaign funds could be used for such items as donuts and juice for constituents when they visit a Member's office or for condolence flowers sent to a constituent. While I believe that these are legitimate expenses and within a Member's official responsibilities, thus allowing the use of appropriated funds, nominal expenses such as these for the benefit of constituents would not be prohibited by the amendment.

On the other hand, buying gifts for constituents of more than de minimus value would clearly be impermissible, even though the purchase of such gifts with campaign funds would not inure directly to the personal benefit of the Member. In addition, gifts for friends or relatives are not legitimate and bona fide campaign expenses.

Mr. President, I also wish to clarify the amendment's scope with respect to other items which some Members have sought to use campaign funds on—items which are not in any gray area and which clearly do not constitute legitimate and bona fide campaign purposes or which are for an inherently personal purpose.

In particular, clothing purchases would not be permitted by the amendment. This includes suits, shoes, shirts, ties, bow ties, and tuxedos. Now some might argue that they must wear suits while campaigning, or that they must wear tuxedos to certain black-tie events. While this may be certainly true, it does not address the issue. Many, many Americans must wear suits every day to work, or must purchase or rent evening wear to attend formal occasions, and they do so out of their hard-earned income. Clothing is inherently personal in nature.

Similarly, campaign funds may not be used for country club memberships, or tennis clubs, or health and fitness clubs, or social clubs. Again, these are inherently personal in nature. The fact that a Member may wish to entertain prospective donors at a club does not change the analysis. Such persons may be entertained at public sites, such as restaurants or hotels. Space at a country club may even be rented for a campaign event. But my amendment would not permit campaign funds to be used for personal membership at such institutions.

One area in which there might be some shades of gray is the use of campaign funds on automobiles. For those Members who do not maintain a home in their home State, the use of an automobile for transportation during a campaign cycle would not be inappropriate. Obviously, reasonable limits must be applied. As a general matter, automobile expenses on the order of $20,000 for a 2-year election cycle would be a legitimate and bona fide campaign expense. This would easily permit the lease of a relatively expensive American made car for a 2-year period.

The bottom line, Mr. President, is that Members are already paid an amount which is in the top 1 percent of incomes in the United States, and which clearly allows them to lead a very comfortable life. Moreover, we are already entitled to numerous perquisites which dramatically inflate the overall value of our compensation. We should not, then, be entitled to use the contributions that are given for the purpose of electing us to serve our constituents as a personal slush fund. Any contributed funds that are not used for legitimate and bona fide campaign purposes should be returned to contributors.

If we are to convince the American people that we are serious about cleaning up the campaign finance system, we need to start with our own campaigns. The American people will expect, and deserve, nothing less.

SENATOR MCCAIN'S COMMENCEMENT ADDRESS TO THE U.S. NAVAL ACADEMY CLASS OF 1993

Mr. GRAMM. Mr. President, yesterday in Annapolis our colleague, JOHN MCCAIN, gave one of the greatest commencement addresses that I have ever read. It is a very moving and powerful address. I thought that our colleagues and the Nation would like to read this address.

I ask unanimous consent that it appear in the RECORD as if given in morning business.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR JOHN MCCAIN TO THE U.S. NAVAL ACADEMY CLASS OF 1993, MAY 26, 1993

Thank you, Admiral Lynch, Secretary Dalton, Admiral Kelso, General Mundy, members of the Board of Visitors, members of Congress, fellow midshipmen of the Class of 1958, distinguished guests, families, and friends. And thank you, midshipmen of the Class of 1993.

To say that I am very grateful to be asked to address you is a gross understatement. In my life, I have never known a greater honor . . . nor one so unexpected.

Thirty-five years ago, I sat where you sit today, listening to my Commander-in-Chief, Dwight David Eisenhower. If one of my classmates had suggested then, that I might someday enjoy the same privilege as President Eisenhower, I would have had very grave doubts about his suitability for future command. My old company commander, Captain Hunt, who for four years devoted himself to tracking my nocturnal sojourns outside the walls of the Academy, would have certainly shared my skepticism.

But America is a land of opportunity where *anything* is possible. And my being given this honor proves it. In gratitude, and in memory of that occasion thirty-five years ago, I intend to keep my remarks brief. I suspect you have other plans for the day which you would prefer to commence sooner rather than later.

You have all completed four years of rigorous, difficult instruction, and are about to begin your careers as officers in the United States Navy and Marine Corps. I want to first congratulate all those midshipmen who distinguished themselves as leaders of your class.

Those of you who do not enjoy that distinction deserve congratulations as well. Although academic and other honors may have eluded you, the standards here are such that simply surviving the four years reflects great credit on your ability and dedication. I say that with all sincerity.

My four years here were not notable for individual academic achievement but, rather, for the impressive catalogue of demerits which I managed to accumulate. By my reckoning, at the end of my second class

year, I had marched enough extra duty to take me to Baltimore and back seventeen times—which, if not a record, certainly ranks somewhere very near the top.

All of you represent as a class the very best of America's most precious resource—her youth. You have been educated in a tradition which I believe still ranks among the noblest endeavors of humankind. You have been imbued with a sense of duty and honor which is the American ideal, and the premise for much of our enduring legacy to the world.

In 1970, my father stood where I stand today. I would have greatly enjoyed attending that graduation had I not been otherwise engaged at the time. I imagine, however, that he told you in different words what I will tell you today: on your shoulders, America now places our most treasured hopes and our gravest cares.

With your commissions come responsibilities so immense and so important that the lives of all Americans and the welfare of much of the world will be directly affected by how well you discharge them. I have every confidence that you will acquit yourselves with distinction.

My confidence is not an empty conceit for how I first made my own way in the world. But it is rooted in my experiences as the progeny of admirals, as an Academy midshipman, as a naval officer, as a witness to heroism.

My grandfather was an aviator. My father, a submariner. Most of my heroes, the people whom I have admired above all others have made their living at sea in defense of their country's cause. For much of my life, the Navy was the only world I knew. It is still the world I know best and love most.

I know the character of Americans who take up arms to defend our nation's interests and to advance our democratic values. I know of all the battles, all the grim tests of courage and character, that have made a legend of the Navy and Marine Corps' devotion to duty.

When he addressed the Class of 1970, my father, who knew well the price of freedom, observed the noble heritage which the midshipmen were entering by directing their attention to the sacrifices borne by their predecessors.

"The historic battles in which they fought are recorded on both sides of this beautiful stadium," he said.

"Their names are memorialized on plaques on the back of seats now occupied by your families and friends. These officers were imbued with a sense of loyalty and dedication which scorns vacillation and doubt."

I know that the character of which my father spoke is formed from many experiences. But I know also that you here today have been inducted into a tradition where you are expected to hold to the highest standards of honor in every aspect of your life. That is your advantage over other men and women. And that is why your country expects so much of you.

You have been taught much of what is necessary to lead other men and women in war and peace. You will learn much more from your approaching experiences. As ensigns and second lieutenants, the character of the young sailors and marines entrusted to your care will be formed in large part by their appreciation of your character.

You are where leadership begins. You are the models who stand just past the sergeants and chiefs, and those under your command will derive from your behavior the direction of their own lives. Their firm respect for you, on which their lives and our security will depend, will be determined by how faithfully *you* keep, on duty and off, the code you learned here.

This responsibility is yours for every waking minute of every day that you wear an officer's uniform. When you forget your duty, others will suffer,but you will be called to account. If you dishonor yourself, you will dishonor your service.

In other walks of life, human failings may pass unnoticed. In our walk of life, their consequences are almost always devastating.

They may lead to the breakdown of good order and discipline because you disillusioned those who were inclined to follow your example. They may lead to the death of fine young men and women who were obliged to put their faith in your leadership. They may even threaten the trust of the people you are sworn to defend, and undermine the exquisite relationship between civilians and the military in a democratic society.

Such was the case in the recent Tailhook scandal. Such is also the case, when we forget, even momentarily, our requirement to respect and obey our civilian commanders. When the American people elect a leader to govern the affairs of our great nation, our respect for their authority must remain inviolate. For it is that respect from which our profession derives so much of its nobility in a democracy.

Your commanders and instructors have worked hard to impart these lessons to you. Your constant remembrance of them will sustain you through long months at sea, long separations from family and friends; through the terror of combat, through grave injury, cruel imprisonment and even, if so required, unto death.

You know as well as I, that the world in which you take your commissions is an uncertain one. I have always tried to follow the advice of that venerable philosopher Yogi Berra, who said "I never make predictions, especially when they're about the future." But there are a few things I can venture an opinion on with some degree of confidence.

With the collapse of the Soviet Union and Warsaw Pact, we have overcome a single massive threat to our security—a massive threat, but a reasonably predictable one. But the world remains a dangerous place. And you will sail into a world where the threats to our security and our values are more numerous, more varied, more complex, and, at times, much more obscure.

Yours is a world where power projection must become the essence of our national defense. The Navy and the Marine Corps will form the core of that strategy. The United States has exerted military force 240 times since the end of World War II. Eighty percent of those occasions involved the use of sea power. That percentage will almost certainly increase in the future.

We have seen the efficacy of U.S. military power in this new era displayed in Panama, in the Persian Gulf, and in Somalia. But we have also seen conflicts that reveal the limits of that efficacy, and for which we have few, if any, viable military answers. Such is the case in the horribly tragedy of Bosnia.

This will be a difficult world to stabilize, much less pacify. It will be difficult to anticipate the level and direction of threats. It will be difficult at times to distinguish friend from foe. It is a daunting challenge to protect our most vital interests in such a world. It will prove even more difficult to secure the success of liberty amidst the new uncertainties and recurring hostilities of our time.

But be assured, you will be called upon to do both. For we know how important our armed forces have been to advancing the just influence of our values. The Iron Curtain did not collapse by accident. The triumph of freedom in the world today is a direct consequence of the blood shed by those who have gone before you in battles too numerous to mention. Their sacrifices protected more than a narrow definition of our national interest. They served, in Lincoln's words, as "a beacon light of liberty" to the most oppressive societies on earth.

One of the most compelling illustrations of the power of their sacrifice occurred four years ago in a Prague square, when a young Czech worker stood before a million of his countrymen, while two hundred thousand Russian troops occupied his country, and, trembling with emotion, read a manifesto that declared a new day for the peoples of Eastern Europe. But he began that new day with borrowed words when he proclaimed:

"We hold these truths to be self-evident: that all men are created equal and endowed by their Creator with certain unalienable rights, among these life, liberty and the pursuit of happiness."

Now, you are the shield behind which marches the enduring message of our own revolution. As I have said, it will be no easy task. But I trust in your willingness and your ability to undertake it.

I hold that trust in deference to my memories of this place, to the men who preceded me here, and to the men and women who followed me. We all shared with you that sense of duty and honor which, as my father said, scorns vacillation and doubt. Here we learned to dread dishonor above all other temptations.

Soon after I became an involuntary guest of the Democratic Republic of Vietnam, my hosts tried to persuade me to make a tape recording in which I would denounce my country's cause. When I resisted, they entreated me to do so by promising me that no one would know of my disloyalty. I responded, "But I would know. I would know." Virtually all of my comrades who shared my situation responded in the same way.

There may be times in your life when the consequences of your devotion to duty are so dire that you will be tempted to abandon them. There may be times when truly only you will know. But you will resist. I know you will. I know this because I have seen how profoundly human strength is empowered by the standards of our tradition.

You see, I have spent time in the company of heroes. And I was raised on tales of surpassing courage and selfless devotion to duty. I have seen and heard of Americans who overcame extraordinary challenges on behalf of their country in struggles almost mythic in their dimensions.

I have seen aviators hurled off the decks of pitching ships, fly powerfully into grave harm, vastly beyond the bounds of normal human caution.

I know well the gunners' stories of having choked back horror to face bravely the attacking kamikaze.

I have heard the tales of men, fathoms down, blind to the rest of the world, prowling the treacherous battlefields of the ocean depths in combat so terrifying it passes much of human understanding.

I stood on the deck of the carrier Forrestal, and watched the crew of that magnificent ship answer their summons to heroism, as one hundred and thirty four of their number perished while fighting a fire that nearly consumed the ship. They fought all day and

well into the next, with the tenacity usually reserved for hand to hand combat, and they saved the Forrestal.

I have seen the swift boats roar into harm's way, vulnerable even to small arms fire, and defenseless save for the quick instincts and steel nerves of their crews.

As an adolescent, I heard men talk in whispered awe of a bleak, frozen terrain where the Marines of the First Division had struggled yard by yard, endured the sharp bite of Siberian winds to smash through seven enemy divisions. Their determined ferocity ranked their retreat from the frozen Chosin in the first order of honored American battles.

I have met the fierce warriors called SEALS, whose desperate fights occur beyond the reach of their nation's artillery, and beyond the limit of human endurance.

I have watched men suffer the anguish of imprisonment, defy appalling human cruelty until further resistance is impossible, break for a moment, then recover inhuman strength to defy their enemies once more.

All these things and more, I have seen. And so will you. I will go to my grave in gratitude to my Creator for allowing me to stand witness to such courage and honor. And so will you.

My time is slipping by. Yours is fast approaching. You will know where your duty lies. You will know.

God bless you. Semper Fi. Fair winds and following seas.

SOUTH AFRICA

Mrs. KASSEBAUM. Mr. President, I rise today to express my strong support for the dramatic changes taking place in South Africa. That troubled country is entering a historic and critical period in its history, one fraught with many dangers and yet unprecedented opportunities.

Next week, 26 parties—including the South African Government, the African National Congress, and Inkatha—will meet to try and reach agreement on the formation of a Transitional Executive Council. This council will govern the country until multiparty, democratic elections are held next year.

If the negotiation process succeeds, I believe that the international community must step forward and offer strong support for South Africa. This is an unique opportunity to assist at a crucial moment in South African history.

Upon the formation of the transitional, multiracial government, the United States should lead the way with five immediate actions:

First, we should repeal all remaining Federal economic and financial sanctions. This would coincide with the call of the African National Congress to lift these restrictions.

Second, State and local governments should terminate their sanctions. These sanctions have inhibited the flow of American investment and trade into South Africa.

As most South Africans realize, the political future of the country is closely intertwined with the economic situation. The South African economy is in dire straits. Unemployment exceeds 40 percent. At the same time, expectations for the new government will be very high. For this reason, it is essential that South Africa reenter the international economy. Investment flows and expanded trade links will generate jobs and help meet the soaring expectations for the new government.

Third, to help the economy, the U.S. Government should aggressively support expanded American business in South Africa through export and investment promotion activities, including Eximbank, OPIC, and the Trade and Development Program.

Fourth, the United States should continue assistance to nongovernmental organizations working in South Africa. Of critical importance are efforts to prepare for elections and put an end to the violence in South Africa.

Finally, the role of multilateral institutions is crucial during this transitional phase. I urge the World Bank particularly to reenter South Africa as soon as possible.

Mr. President, far too often we focus on foreign policy crises—places where starvation is rampant, war has broken out, people are dying in large numbers. I, for one, strongly believe we should spend more time and effort on preventing crises.

South Africa is at a crucial turning point. The country could degenerate into chaos. Undemocratic forces on the right and left are trying to derail the negotiation process. Growing political violence and terrorism threaten the stability of the country.

Alternatively South Africa could proceed down a path which leads to a historic transition to a peaceful, stable, and democratic future. The success of this transition is critical not only for South Africans, but for the stability and development of much of the African Continent.

Mr. President, now is the time to act in support of peaceful and democratic change in South Africa.

UNCLAIMED DEPOSITS AMENDMENTS ACT OF 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 33, H.R. 890, the Unclaimed Deposits Amendments Act of 1993.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 890) to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to improve the procedures for treating unclaimed insured deposits, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 387

(Purpose: To amend the Federal Deposit Insurance Act to improve the procedures for treating unclaimed insured deposits, and for other purposes)

Mr. MITCHELL. Mr. President, I send an amendment by Senators RIEGLE and D'AMATO to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. RIEGLE, for himself, Mr. D'AMATO and Mr. KERRY, proposes an amendment numbered 387.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENTS RELATING TO TREATMENT OF UNCLAIMED DEPOSITS AT INSURED BANKS AND SAVINGS ASSOCIATIONS.

Subsection (e) of section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822(e)) is amended to read as follows:

"(e) DISPOSITION OF UNCLAIMED DEPOSITS.—

"(1) NOTICES.—

"(A) FIRST NOTICE.—Within 30 days after the initiation of the payment of insured deposits under section 11(f), the Corporation shall provide written notice to all insured depositors that they must claim their deposit from the Corporation, or if the deposit has been transferred to another institution, from the transferee institution.

"(B) SECOND NOTICE.—A second notice containing this information shall be mailed by the Corporation to all insured depositors who have not responded to the first notice, 15 months after the Corporation initiates such payment of insured depositors.

"(C) ADDRESS.—The notices shall be mailed to the last known address of the depositor appearing on the records of the insured depository institution in default.

"(2) TRANSFER TO APPROPRIATE STATE.—If an insured depositor fails to make a claim for his, her, or its insured or transferred deposit within 18 months after the Corporation initiates the payment of insured deposits under section 11(f)—

"(A) any transferee institution shall refund the deposit to the Corporation, and all rights of the depositor against the transferee institution shall be barred; and

"(B) with the exception of United States deposits, the Corporation shall deliver the deposit to the custody of the appropriate State as unclaimed property, unless the appropriate State declines to accept custody. Upon delivery to the appropriate State, all rights of the depositor against the Corporation with respect to the deposit shall be barred and the Corporation shall be deemed to have made payment to the depositor for purposes of section 11(g)(1).

"(3) REFUSAL OF APPROPRIATE STATE TO ACCEPT CUSTODY.—If the appropriate State declines to accept custody of the deposit tendered pursuant to paragraph (2)(B), the deposit shall not be delivered to any State, and the insured depositor shall claim the deposit from the Corporation before the receivership is terminated, or all rights of the depositor with respect to such deposit shall be barred.

"(4) TREATMENT OF UNITED STATES DEPOSITS.—If the deposit is a United States deposit

it shall be delivered to the Secretary of the Treasury for deposit in the general fund of the Treasury. Upon delivery to the Secretary of the Treasury, all rights of the depositor against the Corporation with respect to the deposit shall be barred and the Corporation shall be deemed to have made payment to the depositor for purposes of section 11(g)(1).

"(5) REVERSION.—If a depositor does not claim the deposit delivered to the custody of the appropriate State pursuant to paragraph (2)(B) within 10 years of the date of delivery, the deposit shall be immediately refunded to the Corporation and become its property. All rights of the depositor against the appropriate State with respect to such deposit shall be barred as of the date of the refund to the Corporation.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'transferee institution' means the insured depository institution in which the Corporation has made available a transferred deposit pursuant to section 11(f)(1);

"(B) the term 'appropriate State' means the State to which notice was mailed under paragraph (1)(C), except that if the notice was not mailed to an address that is within a State it shall mean the State in which the depository institution in default has its main office; and

"(C) the term 'United States deposit' means an insured or transferred deposit for which the deposit records of the depository institution in default disclose that title to the deposit is held by the United States, any department, agency, or instrumentality of the Federal Government, or any officer or employee thereof in such person's official capacity.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 1 of this Act shall only apply with respect to institutions for which the Corporation has initiated the payment of insured deposits under section 11(f) of the Federal Deposit Insurance Act after the date of enactment of this Act.

(b) SPECIAL RULE FOR RECEIVERSHIPS IN PROGRESS.—Section 12(e) of the Federal Deposit Insurance Act as in effect on the day before the date of enactment of this Act shall apply with respect to insured deposits in depository institutions for which the Corporation was first appointed receiver during the period between January 1, 1989 and the date of enactment of this Act, except that such section 12(e) shall not bar any claim made against the Corporation by an insured depositor for an insured or transferred deposit, so long as such claim is made prior to the termination of the receivership.

(c) INFORMATION TO STATES.—Within 120 days after the date of enactment of this Act, the Corporation shall provide, at the request of and for the sole use of any State, the name and last known address of any insured depositor (as shown on the records of the institution in default) eligible to make a claim against the Corporation solely due to the operation of subsection (b) of this section.

(d) DEFINITION.—For purposes of this section, the term "Corporation" means the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or the Federal Savings and Loan Insurance Corporation, as appropriate.

Amend the title so as to read: "An Act to amend the Federal Deposit Insurance Act to improve the procedures for treating unclaimed insured deposits, and for other purposes.".

Mr. RIEGLE. Mr. President, this amendment enables depositors who may have inadvertently surrendered their rights to their insured deposits, particularly longer term certificates of deposits, to have a reasonable time period to make claims to receive their money. Additionally, the bill will get the States involved in locating depositors who have not claimed their money. The House has previously passed similar legislation on this matter and the expectation is that the House would accept this bill if passed by the Senate. I would urge the Senate to pass this bill.

I ask unanimous consent that a section-by-section summary be printed in the RECORD.

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

SECTION-BY-SECTION SUMMARY—UNCLAIMED DEPOSITS BILL

Section 1. Procedure for Unclaimed Deposits

Under current law, after a depository institution fails, the FDIC or RTC mails a notice to all insured depositors that they must claim their deposit within 18 months. If the deposit is not claimed, it is forfeited to the FDIC or RTC, and the depositor can never recover his or her funds.

The bill provides a new procedure, as follows:

1. The FDIC and RTC are required to mail a notice to all insured depositors within 30 days after the agency begins the process of paying off depositors.

2. After 15 months the FDIC and RTC have to send a second notice to depositors who have not yet claimed their deposit.

3. After 18 months, unclaimed deposits are transferred to the State of the depositor's last known address, or if the address was outside of the U.S., to the state in which the failed institution had its main office.

4. The states may keep the deposit for 10 years. If the depositor is not found after 10 years, the States must refund the unclaimed funds back to the FCIC.

5. If a state refuses to accept a deposit under this procedure, the unclaimed deposit may be claimed from the FDIC beyond the 18 month period, but only until the failed institution is finally resolved and the receivership is terminated.

6. In all cases, unclaimed deposits belonging to the U.S. or any agency or instrumentality of the U.S. are given back to the Treasury.

Section 2. Effective Date and Transition Rule

The changes made by this bill are prospective only. Therefore the new procedures only apply to institutions placed into receivership after the date of enactment.

Depositors in institutions that are in receivership on the date of enactment are given extra time to claim their deposits. These individuals may claim their deposits until the receivership finally terminates, even though this will be longer than 18 months.

The FDIC and RTC are required to provide the States the names and addresses of any insured depositor eligible to make a claim under this transition rule, so that the states can help locate these individuals.

Mr. D'AMATO. Mr. President, today I am joining with Senators RIEGLE and KERRY in sponsoring an amendment, in the nature of a substitute, to H.R. 890. This amendment will provide additional protection to insured depositors of banks and savings association that have failed and been taken over by the FDIC or RTC.

Under current law, when a bank or savings association fails, insured depositors are given only 18 months to claim their deposit. If they do not act within that time limit, their deposit is forfeited to the FDIC or RTC. There is no recourse for the depositor who fails to make a claim within this 18-month period. Thus, even though a depositor may have been sick, incapacitated, or out of the country, their money is lost once this 18-month period expires.

This amendment provides protection for all depositors against this heavy handed treatment. Under this legislation, the FDIC or RTC is required to send two notices to all depositors that they must claim their deposit. The first notice is sent 30 days after the FDIC or RTC begins to payoff insured depositors. A second notice is required after 15 months. If the depositor still does not claim his or her deposit, the FDIC or RTC is required to offer the deposit to the State of the depositor's last known address, to be held by that State for 10 years. During this 10-year period the State will try and locate the depositor and return his or her funds. If, after 10 years the depositor still cannot be located, the money will be returned to the FDIC.

A slightly different procedure applies for institutions that have failed before the bill takes effect, and that are still under FDIC or RTC control. For these institutions the 18 month cutoff date is waived, and depositors will be able to recover their deposits until the institution is totally resolved and the receivership terminated. This could easily take 2 to 4 years, depending upon the complexity of the takeover.

Mr. President, this amendment provides fair treatment for innocent depositors who otherwise could lose thousands of dollars through no fault of their own. I hope that the Senate will approve this legislation, and that we can see it enacted into law in the near future.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 387) was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Without objection, the bill is deemed read a third time and is passed.

So the bill (H.R. 890) was deemed read three times and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate

proceed, en bloc, to the immediate consideration of Calendar Nos. 81, 82, 83, and 84, that the joint resolutions be deemed read three times, passed; and the motion to reconsider the passage of these measures be laid upon the table, en bloc; that the preambles be agreed to, en bloc; further that the consideration of these items appear individually in the RECORD; and any statements appear at the appropriate place.

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

EMERGENCY MEDICAL SERVICES WEEK

The joint resolution (S.J. Res. 39) designating the weeks beginning May 23, 1993, and May 15, 1994, as Emergency Medical Services Week was considered, ordered to be engrossed for a third reading, read the third time and passed.

S.J. RES. 39

Whereas emergency medical services is a vital public service;

Whereas access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury;

Whereas efforts to establish emergency medicine as a medical specialty began twenty five years ago with the founding of the American College of Emergency Physicians in 1968;

Whereas the members of emergency medical services teams are ready to provide lifesaving care to those in need twenty four hours a day, seven days a week;

Whereas emergency medical services teams consist of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others;

Whereas approximately two-thirds of all emergency medical services providers are volunteers;

Whereas the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills;

Whereas Americans benefit daily from the knowledge and skills of these highly trained individuals;

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week; and

Whereas the designation of Emergency Medical Services Week will serve to educate all Americans about injury prevention and how to respond to a medical emergency: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weeks beginning May 23, 1993, and May 15, 1994, are designated as "Emergency Medical Services Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

MENTAL ILLNESS AWARENESS WEEK

The joint resolution (S.J. Res. 61) to designate the week of October 3, 1993, through October 9, 1993, as "Mental Awareness Week" was considered, ordered to be engrossed for a third reading, read the third time and passed, as follows:

S.J. RES. 61

Whereas mental illness is a problem of grave concern and consequence in the United States and it is widely, but unnecessarily, feared and misunderstood;

Whereas on an annual basis 40,000,000 adults in the United States suffer from clearly diagnosable mental disorders, including mental illness, alcohol abuse, and drug abuse, which create significant disabilities with respect to employment, school attendance, and independent living;

Whereas more than 11,200,000 United States citizens are diagnosed with schizophrenia, manic depressive disorder, and major depression, and these individuals are often disabled for long periods of time;

Whereas 33 percent of homeless persons suffer serious, chronic forms of mental illness;

Whereas mental illness, alcohol abuse, and drug abuse affect almost 22 percent of adults in the United States in any 1-year period;

Whereas mental illness interferes with the development and maturation of at least 12,000,000 of our children;

Whereas a majority of the 30,000 American citizens who commit suicide each year suffer from a mental or an addictive disorder;

Whereas our growing population of elderly persons faces many obstacles to care for mental disorders;

Whereas 20 to 25 percent of persons with AIDS will develop AIDS-related cognitive dysfunction and as many as two-thirds of persons with AIDS will how neuropsychiatric symptoms before they die;

Whereas mental illness, alcohol abuse, and drug abuse result in staggering costs to society, estimated to be in excess of $273,000,000 each year in direct treatment and support and indirect costs to society, including lost productivity;

Whereas the Federal research budget committed to the National Institute of Mental Health, the National Institute of Alcoholism and Alcohol Abuse, and the National Institute of Drug Abuse represents only about 1 percent of the direct treatment and support costs of caring for persons with mental disorders, alcohol addiction, and drug addiction;

Whereas mental illnesses are increasingly treatable disorders with excellent prospects for amelioration when properly recognized;

Whereas persons with mental illness and their families have begun to join self-help groups seeking to combat the unfair stigma of mental illness, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (somatic, psychosocial, and service delivery) for some of the most incapacitating forms of mental illness, including schizophrenia, major affective disorders, phobias, and phobic disorders;

Whereas appropriate treatment of mental illness has been demonstrated to be cost-effective in terms of restored productivity, reduced use of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergency of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 3, 1993, through October 9, 1993, is designated as "Mental Illness Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

NATIONAL AWARENESS WEEK FOR LIFE-SAVING TECHNIQUES

The joint resolution (S.J. Res. 73) to designate July 12, 1993, as "National Awareness Week for Life-Saving Techniques" was considered, ordered to be engrossed for a third reading, read the third time and passed, as follows:

S.J. RES. 73

Whereas the National Safety Council reported that over 800,000 Americans died in 1991 as a result of accidents and diseases of the heart;

Whereas accidents are the leading cause of death for children and youth ages 1 to 24 years;

Whereas drowning and choking are a leading cause of accidental death in children under the age of 5 years;

Whereas rescue breathing and cardiopulmonary resuscitation, commonly referred to as CPR, are life-saving techniques that significantly reduce the incidence of sudden death due to accidents and diseases of the heart;

Whereas it is critical that more Americans learn such basic life-saving techniques in order to reduce the number of deaths related to accidents and diseases of the heart;

Whereas the opportunity to learn basic life-saving techniques is available to all Americans through the American Red Cross, the American Heart Association, the YMCA, and other national organizations; and

Whereas the death rate due to accidents and diseases of the heart would be greatly reduced if more Americans received training in basic life-saving techniques: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 5, 1993, through July 12, 1993, is designated as "National Awareness Week for Life-Saving Techniques". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities designed to encourage training in life-saving techniques for Americans.

NATIONAL NYSP DAY

The joint resolution (S.J. Res. 88) to designate July 1, 1993, "National NYSP Day" was considered, ordered to be engrossed for a third reading, read the third time and passed, as follows:

S.J. RES. 88

Whereas the National Youth Sports Program (hereafter referred to as "NYSP") is a

highly effective and comprehensive youth sports and educational instruction program in the United States for economically disadvantaged youth, ages 10 to 16 years old;

Whereas over 69,000 economically disadvantaged young people participated in NYSP last year as United States colleges and universities in 153 cities, 44 States, and the District of Columbia;

Whereas NYSP provides over 70,000 medical and follow-up examinations as well as health instruction by medical professionals to enrolled youth;

Whereas NYSP provides hot United States Department of Agriculture-approved meals and snacks daily to all participating youth;

Whereas the NYSP staff includes professional instructors with undergraduate degrees who offer educational instruction in drug education, AIDS, higher education, nutrition and health, and math and science, and who offer counseling on such topics as career opportunities, teen pregnancy, antigang strategies, and suicide prevention in an effort to promote personal responsibility;

Whereas NYSP is administered by an advisory committee composed of community leaders and college and university personnel, and collaborates with local community action agencies and mayors' offices;

Whereas the NYSP partnership between the public and private sectors ensures that Federal funds are used to provide direct services for youth, that institutions of higher education contribute facilities and personnel and pay the indirect costs of the program, and that public and private businesses donate equipment and supplies; and

Whereas 1993 marks the 25th year that NYSP has provided economically disadvantaged youth with the opportunity to participate in healthy sports activities in order to encourage these youth to build good habits, to direct the competitive urge toward constructive ends, to stimulate the imagination to reach new goals, and to satisfy the human desire to belong: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1, 1993, is designated as "National NYSP Day". The President is authorized and requested to issue a proclamation calling upon State and local jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

EMERGENCY MEDICAL SERVICES WEEK, HOUSE JOINT RESOLUTION 78; NATIONAL TRAUMA AWARENESS MONTH, HOUSE JOINT RESOLUTION 135

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of the following joint resolutions, just received from the House:

House Joint Resolution 78, designating "Emergency Medical Services Week," and House Joint Resolution 135 designating "National Trauma Awareness Month," that the joint resolutions be deemed read three times, passed, and the motion to reconsider laid upon the table, and the preambles agreed to, en bloc; that the consideration of these items appears individually in the RECORD and any statements appear in the appropriate place.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection.

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

So the joint resolution (H.J. Res. 78) was deemed read three times and passed.

So the joint resolution (H.J. Res. 135) was deemed read three times and passed.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 78 and 79, that the resolutions be agreed to; and the motion to reconsider the adoption of these measures be laid upon the table, en bloc; that the preambles be agreed to, en bloc; further that the consideration of these items appear individually in the RECORD; and a statement by Senator MOYNIHAN relative to Calendar No. 79 appear at the appropriate place.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection.

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

CONDEMNING NORTH KOREAS PROPOSED WITHDRAWAL FROM THE TREATY ON NON-PROLIFERATION ON NUCLEAR WEAPONS

The resolution (S. Res. 92) condemning the proposed withdrawal of North Korea from the Treaty on the Non-Proliferation of Nuclear Weapons, and for other purposes was considered, and agreed to as follows:

S. RES. 92

Whereas North Korea stated its intention on March 12, 1993, to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968;

Whereas North Korea remains obligated under the Treaty for a 90-day period;

Whereas no other country has ever formally withdrawn from the Treaty on the Non-Proliferation of Nuclear Weapons;

Whereas no other country has ever compelled the International Atomic Energy Agency (IAEA) to request a special inspection of its nuclear facilities;

Whereas North Korea refuses to allow a special inspection of suspected nuclear waste sites in violation of the Treaty on the Non-Proliferation of Nuclear Weapons;

Whereas representatives from 35 countries make up the IAEA Board of Governors allowing the Agency to act in an impartial manner;

Whereas the United States withdrew all tactical nuclear weapons from the Korean peninsula in 1991; and

Whereas annual Team Spirit U.S.-Republic of Korea exercises are conducted for defensive purposes and are not a provocative act of war: Now, therefore, be it

Resolved, That (a) the Senate hereby condemns North Korea for its stated intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) It is the sense of the Senate that the United States and its international partners should take measured steps to compel North Korea to remain a party to the Treaty and to allow unconditional special inspections of apparent nuclear waste sites and other areas suspected of harboring a nuclear weapons-building program.

URGING THE IMPOSITION OF SANCTIONS AGAINST BURMA

The resolution (S. Res. 112) urging sanctions to be imposed against the Burmese Government, and for other purposes was considered, and agreed to as follows:

S. RES. 112

Whereas the military junta in Burma known as the State Law and Order Restoration Council (in this preamble referred to as the "SLORC") brutally suppressed peaceful democratic demonstrations in September 1988;

Whereas the Senate of the United States has repeatedly condemned and continues its condemnation of the SLORC;

Whereas the SLORC does not represent the people of Burma, since the people of Burma gave the National League for Democracy a clear victory in the election of May 27, 1990;

Whereas the SLORC has held Daw Aung San Suu Kyi, a leader of the National League for Democracy and the winner of the Nobel Peace Prize for 1991, under house arrest since July 1989;

Whereas the United Nations Human Rights Commission unanimously adopted on March 5, 1993, a resolution deploring the human rights situation in Burma and the continued arrest of Daw Aung San Suu Kyi; and

Whereas on March 12, 1992, the Committee on Foreign Relations of the Senate unanimously stated that (1) the SLORC does not represent the Burmese people and should transfer power to the winners of the 1990 elections, (2) United States military attachés should be withdrawn from Burma, and (3) the United States should oppose United Nations Development Program funding for Burma: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President, the Secretary of State, and other United States Government representatives should—

(1) seek the immediate release of Daw Aung San Suu Kyi from arrest and the transfer of power to the winners of the 1990 elections in Burma; and

(2) encourage the adoption by the United Nations Security Council of an arms embargo and other sanctions against the regime of the State Law and Order Restoration Council in Burma.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

Mr. MOYNIHAN. Mr. President, the Senate today has once more made a most important statement of its contempt for the military junta in Burma. The State Law and Order Restoration Council, or SLORC, is quite simply a collection of criminals. They are the jailers of the people of Burma, and the duly elected leadership of the Burmese people.

Today is the third anniversary of the election in Burma of the National League for Democracy. The NLD won over 80 percent of the seats in that

election, only to see the SLORC reject a transfer of power. Elected representatives have been arrested, murdered and exiled.

The true leader of Burma, Daw Aung San Suu Kyi, has been under arrest by the SLROC for near 4 years now. She is the winner of the 1991 Nobel Peace Prize. She is the winner of the 1990 election. She does represent the Burmese people—even if she has been silenced and imprisoned.

But her silence calls to us. And we respond by demanding her freedom. The U.N. Human Rights Commission demands her freedom. Nobel peace laureates tried to go to Rangoon in February to demand her freedom. The SLORC refused them a visa. Can there be any question about the nature of a regime that cowers in front of Nobel Peace Prize laureates?

The Senate today, in a fully bipartisan effort, again demands Aung San Suu Kyi's release and the release of all political prisoners. We ask the President to take action. And we also ask that the Security Council heed the words of the Human Rights Commission. It is past time to impose sanctions on the SLORC. An arms embargo is needed. The President has the support of the Senate on this matter, and we hope that he will pursue it.

The resolution we consider today is cosponsored by Senator SIMON who has worked most diligently on the issue of Burma and who joined me last week in a meeting with Archbishop Desmond Tutu and other members of the Nobel delegation that have sought the release of Aung San Suu Kyi. This resolution is cosponsored by the distinguished chairman and ranking member of the Committee on Foreign Relations, Senators PELL and HELMS. This resolution is cosponsored by Senator MCCONNELL who worked with me last year in fashioning a unanimous position in the Foreign Relations Committee that no U.S. Ambassador could be sent to Burma without appropriate actions taken against the SLORC by the U.S. Government.

I am also pleased to inform the Senate that other Members who have cosponsored this resolution include Senators BIDEN, JEFFORDS, D'AMATO, KERREY, and HATFIELD.

The struggle of the Burmese people is not forgotten by the U.S. Senate, nor is the election of 1990 which repudiated the SLORC. We in the Senate repudiate them also.

REFUGEE ASSISTANCE APPROPRIATIONS AUTHORIZATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2128, a bill to authorize appropriations for refugee assistance, just received from the House, that the bill be deemed read three times, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection.

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

So the bill (H.R. 2128) was deemed read three times and passed.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 76, 77, and 80 en bloc; reported out of the Banking Committee today; that the committee amendment where appropriate be agreed to; that the bills be deemed read a third time, passed; that the motion to reconsider be laid upon the table en bloc; that the consideration of each bill appear separately in the RECORD; and that any statements relative to the passage of these items appear at the appropriate place in the RECORD.

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

JEFFERSON COMMEMORATIVE COIN ACT OF 1993

The bill (S. 50) to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 50

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jefferson Commemorative Coin Act of 1993".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 600,000 one-dollar coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the coins issued under this Act shall be emblematic of a Jefferson profile and frontal view of his home Monticello. On each coin there shall be a designation of the value of the coin, an inscription of the year "1993", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.)

SEC. 4. SELECTION OF DESIGN.

Subject to section 2(a)(2), the design for the coins authorized by this Act shall be selected by the Secretary after consultation with the Executive Director of the Thomas Jefferson Memorial Foundation and the Commission of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act during the period beginning on July 4, 1993, and ending on July 4, 1994.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins authorized under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (c) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(c) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary—

(1) in the case of surcharges received in connection with the sale of the first 500,000 coins issued, to the Jefferson Endowment Fund, to be used—

(A) to establish and maintain an endowment to be a permanent source of support for Monticello and its historic furnishings; and

(B) for the Jefferson Endowment Fund's educational programs, including the International Center for Jefferson Studies; and

(2) in the case of surcharges received in connection with the sale of all other such coins, to the Corporation for Jefferson's Poplar Forest, to be used for the restoration and maintenance of Poplar Forest.

SEC. 9. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in section 8, as may be related to the expenditures of amounts paid under section 8.

SEC. 10. NUMISMATIC PUBLIC ENTERPRISE FUND.

The coins issued under this Act are subject to the provisions of section 5134 of title 31, United States Code, the Numismatic Public Enterprise Fund.

SEC. 11. FINANCIAL ASSURANCES.

It is the sense of the Congress that this coin program shall be self-sustaining, and

should be administered to result in no net cost to the Numismatic Public Enterprise Fund.

WORLD UNIVERSITY GAMES COMMEMORATIVE COIN ACT OF 1993

The bill (S. 216) to provide for the minting of coins to commemorate the World University Games was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 216

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "World University Games Commemorative Coin Act of 1993".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than 200,000 five-dollar coins which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five-dollar coins shall be emblematic of the participation of American athletes in the World University Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1993', and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 750,000 one-dollar coins which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the participation of American athletes in the World University Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1993", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) LEGAL TENDER.—The coins issued under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) SILVER BULLION.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(b) GOLD BULLION.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary, after consultation with the Greater Buffalo Athletic Corporation and the Commission of Fine Arts. As required under section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Advisory Committee.

SEC. 5. SALE OF THE COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five-dollar coins and $7 per coin for the one-dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) GOLD COINS.—The five-dollar coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) SILVER COINS.—The one-dollar coins authorized under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike each such quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this Act may be issued beginning on July 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after June 30, 1994.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Greater Buffalo Athletic Corporation. Such amounts shall be used by the Greater Buffalo Athletic Corporation to support local or community amateur athletic programs, to erect facilities for the use of such athletes, and to underwrite the cost of sponsoring the World University Games.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Greater Buffalo Athletic Corporation as may be related to the expenditures of amounts paid under section 8.

SEC. 10. NUMISMATIC PUBLIC ENTERPRISE FUND.

The coins issued under this Act are subject to the provisions of section 5134 of title 31, United States Code, relating to the Numismatic Public Enterprise Fund.

SEC. 11. FINANCIAL ASSURANCES.

It is the sense of the Congress that this coin program should be self-sustaining and should be administered in a manner that results in no net cost to the Numismatic Public Enterprise Fund.

Mr. D'AMATO. Mr. President, I rise today in support of S. 216, the World University Games Commemorative Coin Act Funding Act.

This legislation provides for the minting of two commemorative coins designed by LeRoy Nieman, the world renown sports artist. These coins will be minted at no cost to the U.S. Government. Proceeds from the sale of the coins will go to support community amateur athletic programs and to help finance the cost of hosting the games.

The World University Games will be held in Buffalo, NY, in July of this year. It is the first time in the Games' 70-year history that they will be held in the United States. Hosting of the games will not only give America an occasion to demonstrate a commitment to the continued growth of amateur sports, but will afford the United States the opportunity to promote the growing spirit of international competition.

Mr. President, the World University Games are expected to draw over 7,000 athletes from 120 countries. The World University Games, open to student-athletes from 17 to 28 years old, are unequivocally the single most important amateur athletics event of 1993. These games are larger than the winter Olympics and second in size only to the summer Olympics. Over the years, the World University Games have always provided an opportunity for university students to gain exposure to valuable cultural as well as academic experiences. The World University Games provide an academic scholarship program that sets this athletic event apart from all others, and symbolizes the successful relationship between academics and athletics.

The games are approaching quickly, Mr. President, and we need to act on this legislation now. The passage of this legislation helps to ensure the games' success and will send a clear message to our Nation's scholar-athletes that we support the hard work and dedication that they put forth every day.

Mr. President, I would also like to thank my colleagues on the Banking Committee for their fast-track consideration of this very important legislation.

RED SKELTON GOLD MEDAL

The Senate proceeded to consider the bill (S. 183) to authorize the President to award a gold medal on behalf of the Congress to Richard "Red" Skelton, and to provide for the production of bronze duplicates of such medal for sale to the public, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Richard "Red" Skelton has provided generations with the gift of laughter, driven by his passion to instill happiness in the hearts of others;

(2) Red Skelton, a true patriot, supported the United States Armed Forces during World War II by selling a record number of

United States war bonds, serving as a private in the United States Army, and working arduously to lift the morale of his fellow soldiers; and

(3) Red Skelton, who worked his way from poverty to success, has shared his talent and his wealth with numerous charities, in an effort to help those less fortunate than himself.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Richard "Red" Skelton in recognition of his exemplary performance as an entertainer and a humanitarian.

(b) DESIGN AND STRIKING.—For the purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be charged against the Numismatic Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medal.

(b) PROCEEDS OF SALE.—Amounts received from the sales of duplicate bronze medals under section 3 shall be deposited in the Numismatic Public Enterprise Fund.

So the bill (S. 183), as amended, was passed, as follows:

S. 183

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

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Richard "Red" Skelton has provided generations with the gift of laughter, driven by his passion to instill happiness in the hearts of others;

(2) Red Skelton, a true patriot, supported the United States Armed Forces during World War II by selling a record number of United States war bonds, serving as a private in the United States Army, and working arduously to lift the morale of his fellow soldiers; and

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MESSAGE FROM THE HOUSE

At 1:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2118. An act making supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes.

H.R. 2244. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1993, and for other purposes.

At 9:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 105. Concurrent resolution providing for an adjournment of the House from the legislative day of Thursday, May 27, 1993 to Tuesday, June 8, 1993 and an adjournment or recess of the Senate from Friday, May 28, 1993 until Monday, June 7, 1993;

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 1723. An act to authorize the establishment of a program under which employees of the Central Intelligence Agency may be offered separation pay to separate from service voluntarily to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function or other similar action, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated.

H.R. 2118. An act making supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

H.R. 2244. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, May 27, 1993, he presented to the President of the United States the following bill and joint resolution:

S. 564. An act to establish in the Government Printing Office a means of enhancing electronic public access to a wide range of Federal electronic information.

S.J. Res. 43. Joint resolution designating the week beginning June 6, 1993, and June 5, 1994, "Lyme Disease Awareness Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–856. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to extend the Solid Waste Disposal Act; to the Committee on Environment and Public Works.

EC–857. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to extend certain provisions of the Safe Drinking Water Act, as amended, for two years; to the Committee on Environment and Public Works.

EC–858. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to amend and extend the Federal Water Pollution Control Act, as amended, for two years; to the Committee on Environment and Public Works.

EC–859. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation entitled "The Environmental Research, Development, and Demonstration Authorization Act of 1993"; to the Committee on Environment and Public Works.

EC–860. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to amend and extend the Toxic Substances Control Act, as amended, for two years; to the Committee on Environment and Public Works.

EC–861. A communication from the Acting Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting, pursuant to law, a report relative to coastal wetlands restoration projects undertaken in fiscal year 1993; to the Committee on Environment and Public Works.

EC–862. A communication from the Chairman of the Defense Base Closure and Realignment Commission, transmitting, pursuant to law, certain certified materials relative to the Department of the Navy; to the Committee on Armed Services.

EC–863. A communication from the Principal Deputy, Assistant Secretary of the Air Force (Acquisition), Department of the Air Force, transmitting, pursuant to law, notice of plans to conduct a cost comparison of Air Training Command's Base Operating Support function; to the Committee on Armed Services.

EC–864. A communication from the Deputy Secretary of Defense, transmitting, a draft of proposed legislation to amend the Internal Revenue Code of 1986 to postpone the time for the performance of certain acts during contingency operations of the Armed Forces; to the Committee on Finance.

EC–865. A communication from the Acting Director of the U.S. Arms Control and Disarmament Agency, transmitting, a draft of proposed legislation to authorize appropriations of funds for the ACDA for fiscal years 1994 and 1995; to the Committee on Foreign Relations.

EC–866. A communication from the Acting Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, notice of the transfer of funds in fiscal year 1993 to the Peacekeeping Operations Account for Enforcement of Sanctions Against Serbia and Montenegro; to the Committee on Foreign Relations.

EC–867. A communication from the Acting General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation entitled "Special Debt Relief for the Poorest Act of 1993"; to the Committee on Foreign Relations.

EC–868. A communication from the Acting Director of the National Science Foundation, transmitting, a draft of proposed legislation to amend the Program Fraud Civil Remedies Act of 1986 to include the National Science Foundation; to the Committee on Governmental Affairs.

EC–869. A communication from the U.S. International Trade Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1992 through March 31, 1993; to the Committee on Governmental Affairs.

EC–870. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 92. A resolution condemning the proposed withdrawal of North Korea from the Treaty on the Non-Proliferation of Nuclear Weapons, and for other purposes.

S. Res. 112. A resolution urging sanctions to be imposed against the Burmese government, and for other purposes.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 50. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 183. A bill to authorize the President to award a gold medal on behalf of the Congress to Richard "Red" Skelton, and to provide for the production of bronze duplicates of such medal for sale to the public.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 216. A bill to provide for the minting of coins to commemorate the World University Games.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 39. A joint resolution designating the weeks beginning May 23, 1993, and May 15, 1994, as "Emergency Medical Services Week."

S.J. Res. 61. A joint resolution to designate the week of October 3, 1993, through October 9, 1993, as "Mental Illness Awareness Week."

S.J. Res. 73. A joint resolution to designate July 5, 1993, through July 12, 1993, as "National Awareness Week for Life-Saving Techniques."

S.J. Res. 88. A joint resolution to designate July 1, 1993, as "National NYSP Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Joan E. Spero, of New York, to be United States Alternative Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternative Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; and United States Alternate Governor of the European Bank for Reconstruction and Development.

John Howard Francis Shattuck, of Massachusetts, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs; and

Marilyn McAfee, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee Marilyn McAfee.

Post American Embassy, Guatemala.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, Joel William Febel, None.

3. Children and spouses, names, N/A.

4. Parents names, Mary Nolen McAfee, Jesse Stuart McAfee, deceased.

5. Grandparents names, Joseph Robt. Nolen Genevra Shaffer Nolen, Jesse U. McAfee, Anne Reeves McAfee, Deceased.

6. Brothers and spouses names, Robert Stuart McAfee, Ann Coleman McAfee, None.

William Thornton Pryce, of Pennsylvania, a career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Honduras.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee William Thornton Pryce.

Post Honduras.

Contributions, amount, date, and donee.

1. Self, William T. Pryce, none.

2. Spouse, Joan M. Pyrce, None.

3. Children and spouses, names, Kathy E. Pryce, Jeffrey F. Pryce, Scott F. Pryce, none.

4. Parents, names, Roland F. Pyrce, Katharine H. Pryce, deceased.

5. Grandparents names, Harry Pryce, Mary Jane Pryce, Francis Hartman, Edna Lynch Hartman, deceased.

6. Brothers and spouses names, Katharine Pyrce Collins, None.

7. Sisters and spouses names, Katharine Pryce Collins, None.

James Richard Cheek, of Arkansas, a career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Argentina.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self and spouse, $200.00 April 1, 1992 Clinton for President, $100.00 October 2, 1992 Clinton/Gore Campaign.

2. Children and spouses names, Leesa Cheek Ferguson, Michael Ferguson $100.00 September 9, 1992, Clinton for President. Forest Cheek, spouse Adrianne, None, Surya Iaman Cheek (minor son) none.

3. Parents, names, Dorothy Cheek (mother) none. Father deceased.

4. Grandparents names, deceased.

5. Brothers and spouses names, Brother deceased.

6. Sisters and spouses names, Sherry Cheek Light and spouse Larry Light, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI:

S. 1036. A bill to authorize the Administrator of the General Services Administration to enter into agreements for the construction of border stations on the United States borders with Canada and Mexico, and for other purposes; to the Committee on the Judiciary.

By Mrs. MURRAY:

S. 1037. A bill to amend the Civil Rights Act of 1991 with respect to the application of such Act; to the Committee on Labor and Human Resources.

By Ms. MIKULSKI (for herself and Mr. LEAHY):

S. 1038. A bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapters which are applicable to law enforcement officers, to inspectors of the Immigra-

and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service; to the Committee on Governmental Affairs.

By Mr. BOND:

S. 1039. A bill to require the use of child restraint systems on commercial aircraft; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. KENNEDY, Mr. COCHRAN, and Mr. HARKIN):

S. 1040. A bill to support systemic improvement of education and the development of a technologically literate citizenry and internationally competitive work force by establishing a comprehensive system through which appropriate technology-enhanced curriculum, instruction, and administrative support resources and services, that support the National Education Goals and any national education standards that may be developed, are provided to schools throughout the United States; to the Committee on Labor and Human Resources.

By Mr. GREGG:

S. 1041. A bill to amend the Public Health Service Act to promote the immunization of children, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATFIELD:

S. 1042. A bill to amend the Public Health Service Act to establish an Ethical Advisory Board, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. FORD, Mr. MCCONNELL, and Mr. LUGAR):

S. 1043. A bill to extend until January 1, 1998, the existing suspension of duty on certain bicycle parts, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. LUGAR, Mr. GORTON, Mr. D'AMATO, Mr. WALLOP, and Mr. THURMOND):

S. 1044. A bill terminating the United States arms embargo of the Government of Bosnia-Hercegovina; to the Committee on Foreign Relations.

By Mr. WOFFORD (for himself and Mr. BRADLEY):

S. 1045. A bill to permit States to establish programs using unemployment funds to assist unemployed individuals in becoming self-employed; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 1046. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space allocated for parking; to the Committee on Rules and Administration.

By Mr. MURKOWSKI:

S. 1047. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. DANFORTH):

S. 1048. A bill to suspend temporarily the duty on DMAS.; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. DASCHLE):

S. 1049. A bill to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for Mr. KRUEGER):

S. 1050. A bill to designate the Federal building located at 525 Griffin Street in Dallas, Texas, as the "A. Maceo Smith Federal Building"; to the Committee on Environment and Public Works.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 1051. A bill to amend title XVIII of the Social Security Act to extend the period during which medicare-dependent, small rural hospitals receive additional payments under the medicare program for the operating costs of inpatient hospital services, to revise the criteria for determining whether hospitals are eligible for such additional payments, and to provide additional payments under the medicare program to other medicare-dependent hospitals; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. STEVENS, and Mr. KERRY):

S. 1052. A bill to authorize appropriations for fiscal years 1994 and 1995 for the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FORD (for himself, Mrs. MURRAY, Mr. MATHEWS, Mr. STEVENS, Mr. KRUEGER, Mrs. FEINSTEIN, Mr. INOUYE, and Mr. BRYAN):

S. 1053. A bill to amend the Federal Aviation Act of 1958 to provide emergency relief to the United States airline industry by facilitating financing for investment in new aircraft and by encouraging the retirement of older, noisier, and less efficient aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GLENN (for himself, Mr. PELL, Mr. HELMS, and Mr. D'AMATO):

S. 1054. A bill to impose sanctions against any foreign person or United States person that assists a foreign country in acquiring a nuclear explosive device or unsafeguarded nuclear material, and for other purposes; to the Committee on Foreign Relations.

By Mr. GLENN (for himself, Mr. PELL, and Mr. D'AMATO):

S. 1055. A bill to amend the Nuclear Non-Proliferation Act of 1978 and the Atomic Energy Act of 1954 to improve the organization and management of United States nuclear export controls, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Mr. LIEBERMAN, Mr. THURMOND, Mr. HOLLINGS, and Mrs. BOXER):

S. 1056. A bill to require that defense reinvestment and economic growth funds be allocated among communities on the basis of the relative levels of reductions in employment experienced in such communities as a result of reduced spending for national defense functions; to the Committee on Governmental Affairs.

By Mr. JEFFORDS:

S. 1057. A bill to provide for the establishment of a nationwide, universal access health coverage program, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 1036. A bill to authorize the Administrator of the General Service Administration to enter into agreements for the construction of border stations on the United States borders with Canada and Mexico, and for other purposes; to the Committee on the Judiciary.

BORDER STATION LEGISLATION

• Mr. DECONCINI. Mr. President, I am introducing legislation today which will permit the Federal Government to take advantage of state and local financing of United States-Mexico and United States-Canada border facilities. At a time when the budget deficit is increasing on an annual basis and when limited Federal funds are available to undertake critical Federal construction projects, it makes sense to establish a budget process which permits State and local governments to provide the upfront financing for new and expanded border facilities. Particularly in light of the upcoming North American Free-Trade Agreement.

In 1988 along with my colleague from New Mexico, Senator DOMENICI, I initiated a long-term program for the renovation and improvement of the deteriorated border facilities along the United States-Mexico border. It was called the Southwest Border Capital Improvements Program. This initiative, which is still underway, called for the construction of 40 new and expanded border stations along the United States-Mexico border from California to Texas. It included the expansion of primary inspection booths, secondary, and new commercial lots for virtually all of the ports on the United States-Mexico border to improve passenger processing and ensure the expeditious flow of commercial trade. To date, total funding of $360 million has been provided to the General Services Administration [GSA] to undertake this massive effort on the border.

When we moved forward on the Southwest Border Capital Improvements Program, we had no idea that a free-trade agreement with the United States and Mexico would be forthcoming. The initiative, therefore, only took into consideration the improvements and expansion required to accommodate projected trade demands at that time. Now, with a free-trade pact for the United States, Canada, and Mexico looming, it appears that more facilities and new ports will be required to accommodate the increase in trade which is an expected outcome of the free-trade agreement. Unfortunately, the Federal funds to construct more facilities and the associated infrastructure will be limited due to budgetary constraints.

Up until the enactment of the Omnibus Budget Reconciliation Act of 1990, the Congress could have simply authorized the General Services Administration to enter into lease to purchase or capital lease agreements to acquire Federal facilities. At that time, it was common practice for the Federal Government to contract with the private sector to develop and construct a facility using private capital. However, with the enactment of Public Law 101-508 the Congress agreed to go along with an OMB scoring change which requires all budget authority to be scored against a bill in the first year in which it is made available for the Govern-

ment's full obligation under a contract for the purchase, lease-purchase, or lease of a capital asset. As a result, even if a State or local government is willing to provide the money, up front, to construct a facility for the Government's long-term use, and to charge the Government a yearly lease payment to recover the initial investment cost, similar to a mortgage, a bill will be scored for the entire long-term costs to the Federal Government up front just as if the Government were financing the direct construction of the project. OMB's justification for this change was that it is more costly for the Federal Government over time to enter into lease-purchase arrangements than for the Federal Government to undertake direct construction.

Mr. President, the same argument can be made for mortgages on a private residence. However, how many Americans would own homes if they had to provide the full amount for the purchase up front? I think, very few. When a private citizen takes out a mortgage, he is more concerned about his ability to cover the monthly mortgage payments. Why shouldn't the same procedure apply to the Federal Government? If we had unlimited Federal funds for constructing buildings and acquiring capital assets, it may make more sense for the full amount to be provided up front. However, this is not the case and I don't see this situation changing anytime soon.

The legislation I am introducing today will reverse the budget scoring practice currently in effect to permit GSA to enter into contracts to acquire, through a purchase, lease purchase, or capital lease, United States-Mexico and United States-Canada border facilities. It will permit those interested State and local governmental entities to provide the up-front capital to construct border facilities which can then be leased back to the Federal Government. It will also permit the Federal Government to respond to the long-term infrastructure needs associated with free trade that most people believe will be a certain outcome of the North American Free-Trade Agreement.

Mr. President, I never supported the scoring change on lease purchases contained in the 1990 Omnibus Budget Reconciliation Act. I didn't believe it made any sense then and I don't now. Today's legislation is an attempt to return rational thinking to the budget process, albeit only for critically needed border facilities.

I ask unanimous consent that the entire text of the bill be inserted into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1036

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

SECTION 1. AUTHORIZATION.

The Administrator of the General Services Administration may enter into agreements with State and local governments of the United States for the construction of border stations on the borders of the United States with Canada and Mexico. Agreements under this Act shall be authorized only for facilities—

(1) that meet applicable Federal government requirements for border stations;

(2) that are located on sites approved by the Commissioner of the United States Customs Service, the Commissioner of the Immigration and Naturalization Service, the Secretary of Agriculture, and the Administrator of the General Services Administration; and

(3) which have been approved by the Committees on Appropriations of the House of Representatives and the Senate, the Public Works and Transportation Committee of the House of Representatives, and the Environment and Public Works Committee of the Senate.

SEC. 2. TERMS OF AGREEMENTS.

(a) IN GENERAL.—An agreement entered into under this Act shall provide for the acquisition of land and materials for the construction of border stations.

(b) TERMS AND LIMITATIONS.—

(1) OBLIGATIONS OF FUNDS.—The obligation of the United States under an agreement entered into under this Act shall be limited to the current fiscal year for which payments are due without regard to section 3328(a)(1)(B) of title 31, United States Code.

(2) DURATION OF AGREEMENT.—An agreement entered into under this Act shall provide for lease or installment payments over a period of not to exceed 30 years for the payment of the purchase price and reasonable interest.

(3) VESTING OF TITLE.—An agreement entered into under this Act shall provide for the title to the property and facilities to vest in the United States on or before the expiration of the contract term, on fulfillment of the terms and conditions of the agreement.

SEC. 3. BUDGETARY TREATMENT.

Notwithstanding any other provision of law, or guidelines or regulations issued pursuant thereto, the obligations of the Federal government arising out of an agreement entered into under this Act shall be scored each fiscal year based on the estimated expenditures in the fiscal year.●

By Mrs. MURRAY:

S. 1037. A bill to amend the Civil Rights Act of 1991 with respect to the application of such Act; to the Committee on Labor and Human Resources.

JUSTICE FOR WARDS COVE WORKERS ACT

Mrs. MURRAY. Mr. President, I rise today on behalf of myself and Senators KENNEDY, SIMON, LEVIN, CAMPBELL and AKAKA to introduce the Justice for Wards Cove Workers Act.

The passage of the Civil Rights Act of 1991 was a truly historic occasion. I remember being back in my home State of Washington and applauding Congress for sending a very clear message to the courts and to the Nation—discrimination will not be tolerated.

However, I also remember the press generated a while later in Washington State about one particular line of that act—a line that exempts one employer and one group of employees from coverage. Mr. President, that is why I am here today to introduce this bill.

It is a very simple bill, really. It is designed to ensure that we are all treated equally under the Civil Rights Act of 1991. The bill will remove the provision in the act that exempts the employer and employees involved in the Wards Cove Packing Co. versus Antonio case.

Actually, the legislation reminds me of when I taught the Pledge of Allegiance to my preschool students. The pledge ends with the phrase "with liberty and justice for all." It does not make any exceptions. Mr. President, my students understood this principle and I know the U.S. Congress does too.

As a newcomer to this body, I come to this issue as a matter of fundamental fairness. I know that there is a long drawn-out history with regard to the Wards Cove exemption. I also know that some sort of deal was struck during negotiations for the passage of the Civil Rights Act of 1991. However, in my opinion, this type of injustice cannot stand.

Our actions and votes affect lives. A few words in a large piece of legislation can have a huge impact. Those words in the Civil Rights Act of 1991 exempting the Wards Cove Packing Co. and workers directly affect thousands of people's lives. In a less direct way, those words affect all of us. The Wards Cove exemption violates our most basic notions of justice.

Mr. President, the exemption of any employer or employee from our Federal civil rights laws would cause me great concern. However, the fact that the U.S. Supreme Court's decision in Wards Cove was one of the decisions that prompted Congress to enact the Civil Rights Act of 1991—in the first place—makes the injustice of the Wards Cove exemption all the more glaring.

The Wards Cove case has been in the courts since 1974. For the record, I should mention that it involves claims of discrimination by Asian-Pacific Americans and Native Alaskans in the salmon canning industry in Alaska.

However, I am not going to describe those claims today. The legislation I am introducing is not designed to determine the outcome of that case. It is designed to ensure that we are all treated equally under Civil Rights Act of 1991.

Mr. President, some of my colleagues may be concerned that this legislation will make the Civil Rights Act of 1991 retroactive. I want to emphasize that this bill was carefully drafted so as not to address the issue of retroactivity. The Justice for Wards Cove Workers Act simply will repeal the Wards Cove exemption in the Civil Rights Act of 1991.

The exemption must be removed. President Clinton has pledged his

strong support for this legislation, and I believe that this bill should receive the full support of both Houses of Congress. I urge my colleagues to join me in supporting the Justice for Wards Cove Workers Act.

Mr. KENNEDY. Mr. President, it is an honor to join Senator MURRAY and our other colleagues in introducing the Justice for Wards Cove Workers Act.

The Civil Rights Act of 1991 was the culmination of 2 years of intense legislative debate about effective ways to deal with a series of unfortunate Supreme Court decisions, including Wards Cove Packing Co. versus Atonio, that had seriously weakened the civil rights laws.

In October 1991, when the Bush administration finally agreed to accept stronger job discrimination remedies for the future, the administration also sought to assure that the new law would not apply to the thousands of civil rights cases then pending. This position was unacceptable to many of us who were strong supporters of the act, and was contrary to the traditional practice of permitting litigants in pending cases to take advantage of favorable changes in the law.

Compromise language on retroactivity was eventually reached. But several Republican Senators insisted on including a provision specifically stating that the act would not apply to the parties in the Wards Cove case itself, the case that had dominated much of the public debate over the legislation. As a result, section 402(b) was included in the act, which exempts that controversial case from the act's coverage.

The legislation we are introducing today will repeal section 402(b). The applicability of the Civil Rights Act of 1991 to other cases that were pending on the date of enactment is currently before the Supreme Court, and a decision is expected early next year. Our legislation is carefully drafted so that it will not affect the outcome of that litigation.

Whatever the Supreme Court decides should apply to the Wards Cove litigants too. It was unfair for Congress to single out the plaintiffs for adverse treatment. I urge my colleagues to support the Justice for Wards Cove Workers Act.

By Ms. MIKULSKI (for herself and Mr. LEAHY):

S. 1038. A bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapters which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service; to the Committee on Governmental Affairs.

HAZARDOUS OCCUPATIONS RETIREMENT BENEFITS ACT OF 1993

• Ms. MIKULSKI. Mr. President, I rise today to introduce legislation to permit certain employees of the U.S. Customs Service, Immigration and Naturalization Service, and Internal Revenue Service who are working in hazardous occupations to retire at age 50 with 20 years of Federal service. I have introduced similar legislation in the 100th, 101st, and 102d Congresses.

Under current law, Federal law enforcement officers and firefighters are eligible to retire at age 50 with 20 years of Federal service. This legislation would provide the same retirement benefit to U.S. Customs inspectors and canine enforcement officers, immigration inspectors, and IRS revenue officers. Like law enforcement officers and firefighters, these employees also have very hazardous, physically taxing occupations, and it is in the public's interest to ensure a young and vigorous work force in these jobs.

Customs and Immigration inspectors are our first line of defense against terrorism and the smuggling of illegal drugs. Recently, Customs instituted an antiterrorist program called Border Shield, which put employees on full alert at all border crossings and airports and required inspectors to carry firearms at all times. A clear and constant threat of severe bodily injury means that all Customs inspectors are authorized to carry firearms and must meet one of the highest qualification standards of all law enforcement officers.

In February 1990, a tragic reminder of this threat occurred when Timothy McGaghren, a U.S. Customs inspector, was killed in the line of duty on the Southwest border.

According to an FBI Uniform Crime Report, in 1988 IRS officers suffered more assaults than any law enforcement group in the Federal Government, and Customs and Immigration officers were assaulted at a rate exceeding that experienced by the FBI, U.S. Marshals Service, and the U.S. Secret Service. In addition, between 1984 and 1988, more Customs officers died due to service-related injuries than any other group except DEA and Bureau of Prisons officers.

I urge my colleagues to join me again in this Congress in expressing support for this bill and finally getting it enacted. This bill will improve the effectiveness of our inspector and revenue officer work force to ensure the integrity of our borders and proper collection of the taxes and duties owed to the Federal Government.

Mr. President, I ask unanimous consent that the text of the bill appear in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1038

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

SECTION 1. CIVIL SERVICE RETIREMENT SYSTEM.

(a) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (25);

(2) by striking out the period at the end of paragraph (26) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(27) 'revenue officer' means an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns, including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(28) 'customs inspector' means an employee of the United States Customs Service, the duties of whose position are primarily to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(29) 'customs canine enforcement officer' means an employee of the United States Customs Service, the duties of whose position are primarily to work directly with a dog in an effort to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(30) 'Immigration and Naturalization inspector' means an employee of the Immigration and Naturalization Service, the duties of whose position are primarily the controlling and guarding of the boundaries and borders of the United States against the illegal entry of aliens, including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out "a law enforcement officer," and inserting in lieu thereof "a law enforcement officer, a revenue officer, a customs inspector, a customs canine enforcement officer, an Immigration and Naturalization inspector,"; and

(2) in the table in subsection (c), by striking out "and firefighter for firefighter service." and inserting in lieu thereof ", firefighter for firefighter service, revenue officer for revenue officer service, customs inspector for customs inspector service, customs canine enforcement officer for customs canine enforcement officer service, and Immigration and Naturalization inspector for Immigration and Naturalization inspector service".

(c) MANDATORY SEPARATION.—Section 8335(b) of title 5, United States Code, is amended in the second sentence by striking out "law enforcement officer" and inserting in lieu thereof "law enforcement officer, a revenue officer, a customs inspector, a customs canine enforcement officer, or an Immigration and Naturalization inspector".

(d) IMMEDIATE RETIREMENT.—Section 8336(c)(1) of such title is amended by striking out "law enforcement officer or firefighter," and inserting "law enforcement officer, a firefighter, a revenue officer, a customs inspector, a customs canine enforcement officer, or an Immigration and Naturalization inspector,".

SEC. 2. FEDERAL EMPLOYEES RETIREMENT SYSTEM.

(a) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (31);

(2) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(33) 'revenue officer' means an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns, including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(34) 'customs inspector' means an employee of the United States Customs Service, the duties of whose position are primarily to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(35) 'customs canine enforcement officer' means an employee of the United States Customs Service, the duties of whose position are primarily to work directly with a dog in an effort to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(36) 'Immigration and Naturalization inspector' means an employee of the Immigration and Naturalization Service, the duties of whose position are primarily the controlling and guarding of the boundaries and borders of the United States against the illegal entry of aliens, including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(b) IMMEDIATE RETIREMENT.—Section 8412(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "or firefighter," and inserting in lieu thereof "firefighter, revenue officer, customs inspector, customs canine enforcement officer, or Immigration and Naturalization inspector,"; and

(2) in paragraph (2) by striking out "or firefighter," and inserting in lieu thereof "firefighter, revenue officer, customs inspector, customs canine enforcement officer, or Immigration and Naturalization inspector,".

(c) COMPUTATION OF BASIC ANNUITY.—Section 8415(g)(2) of title 5, United States Code, is amended in the sentence following subparagraph (B) by inserting "revenue officer, customs inspector, customs canine enforcement officer, Immigration and Naturalization inspector," after "firefighter,".

(d) DEDUCTIONS.—Section 8422(a)(2) of title 5, United States Code, is amended—

(1) in subparagraph (A) by inserting "revenue officer, customs inspector, customs canine enforcement officer, Immigration and Naturalization inspector," after "air traffic controller,"; and

(2) in subparagraph (B) by inserting "revenue officer, customs inspector, customs canine enforcement officer, Immigration and Naturalization inspector," after "air traffic controller,".

(e) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B)(i) by inserting "revenue officer, customs inspector, customs canine enforcement officer, Immigration and Naturalization inspector," after "law enforcement officer,"; and

(2) in paragraph (3)(A) by inserting "revenue officer, customs inspector, customs canine enforcement officer, Immigration and Naturalization inspector," after "law enforcement officer,".

(f) MANDATORY SEPARATION.—Section 8425(b) of title 5, United States Code, is amended in the second sentence by inserting ", revenue officer, customs inspector, customs canine enforcement officer, or Immigration and Naturalization inspector" after "law enforcement officer".

SEC. 3. ADMINISTRATIVE PROVISIONS.

(a) EMPLOYEE CONTRIBUTIONS.—Any individual who has served as a revenue officer, customs inspector, customs canine enforcement officer, or Immigration and Naturalization inspector before the effective date of this Act, shall have such service credited and annuities determined in accordance with the amendments made by sections 1 and 2 of this Act, if such individual makes payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual (including interest thereon) under chapters 83 and 84 of title 5, United States Code, as if such amendments had been in effect during the periods of such service.

(b) AGENCY CONTRIBUTIONS.—No later than 90 days after a payment made by an individual under subsection (a), the Department of the Treasury or the Department of Justice (as the case may be) shall make a payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been contributed as a Government contribution (including interest thereon) under chapters 83 and 84 of title 5, United States Code, for the service credited and annuities determined for such individual, as if the amendments made by sections 1 and 2 of this Act had been in effect during the applicable periods of service.

(c) REGULATIONS.—The Office of Personnel Management shall determine the amount of interest to be paid under this section and may promulgate regulations to carry out the provisions of this Act.

SEC. 4. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall take effect on the date occurring 90 days after the date of enactment of this Act.●

By Mr. BINGAMAN (for himself, Mr. KENNEDY, Mr. COCHRAN, and Mr. HARKIN):

S. 1040. A bill to support systemic improvement of education and the development of a technologically literate citizenry and internationally competitive work force by establishing a comprehensive system through which appropriate technology-enhanced curriculum, instruction, and administrative support resources and services, that support the National Education Goals and any national education standards that may be developed, are provided to schools throughout the United States; to the Committee on Labor and Human Resources.

THE TECHNOLOGY FOR EDUCATION ACT OF 1993

● Mr. BINGAMAN. Mr. President, I introduce on behalf of myself, Senators KENNEDY, COCHRAN, and HARKIN, the Technology for Education Act of 1993.

The children in our elementary and secondary schools face the most dynamic and rapidly changing workplace of recent history. While technology is redefining the industries that will employ them, technology is also the key to preparing our children for the complex world ahead.

The bill I am introducing today, the Technology for Education Act of 1993, will facilitate a revolution in the way we teach our children. The goal of this bill is to improve our system of education in order to help Americans become more technologically literate and internationally competitive.

Technology has become a part of just about every aspect of modern life. We deal with technology at home, at work and even at the supermarket. Unfortunately, American classrooms are one of the last areas to gain the advantage of technology. Now, through this legislation we will integrate technology into classrooms throughout the Nation.

Several years ago, the Nation's Governors—including then-Governor Clinton—got together and established ambitious goals for our students, teachers, and schools to strive toward. The Nation, the Congress, and the Clinton administration are committed to achieving the high standards of the National Education Goals. As one of the two U.S. Senators on the National Education Goals Panel, I believe our children can meet these goals if we challenge them and provide them with appropriate resources.

Now that we have challenged our students to meet high standards, we must also try to assist them. With this legislation, the Federal Government can step forward and provide a method to help students, local school districts, and States meet the goals. Educational

technology is a powerful, cost-effective tool to help our students meet the National Education Goals by the year 2000.

New Mexico is currently engaged in the revolution. Classrooms of the future are emerging in a cluster of nine small high schools scattered across the plains of rural eastern New Mexico. High school students in San Jon, House, and Grady—some of the most rural communities in New Mexico—are taking advanced classes from a college some 50 miles away. The schools linked with the Clovis Community College through a two-way interactive video system.

Through the application of technology to education, students can participate in a regional classroom, with access to educational resources unavailable in their schools and communities. This pocket of innovation in my State is a simple, but instructive, example of the transition currently taking place in schools across the Nation as we strive to reform our educational system.

But to ensure equity and access to all students, the fair allocation of all educational resources—including technology—must be a goal of our educational reform effort. This bill will help bring equity and access to the distribution of educational technologies.

Creative uses of educational technology—computers, state-of-the-art software, video programming, VCR's, video discs, and telecommunication links—can transport the student into an intellectual Disneyland. Imagine a video journey to exotic locations to learn about geography, history, or current events; or a live link with Shuttle astronauts to discuss scientific experiments. Access to these tools can inspire a generation of youth to become engaged in the educational process.

The Education Technology Act of 1993 would develop a comprehensive strategy to integrate educational technology into the curriculum of every American classroom. Through the bill, the Federal Government will become a catalyst for extending the Nation's technology infrastructure to support learning technologies for elementary and secondary students and teachers.

I know the Clinton administration, under the leadership of Secretaries Riley and Kunin, are committed to the goals of this legislation—enhancing technology in our schools. I would like to thank Senators EDWARD KENNEDY and THAD COCHRAN for their continued support of this bill, and for the dedicated efforts of their staff—Ellen Guiney, Geri Anderson-Nielsen, Doris Dixon, and Ray Ramirez, formerly on my staff. I would like to thank Senator PAUL SIMON for his leadership in providing the library and media resources provisions of this bill, as well as acknowledge the help we received from the educational community, professional associations, and industry.

This legislation attempts to correct the unequitable acquisition and application of technology in education throughout the United States due to several reasons: The absence of Federal leadership; the inability of many State and local education agencies to invest in and support the needed technologies; and the limited availability of appropriate technology-enhanced curriculum, instruction, and administrative support in the education marketplace.

This bill provides leadership and guidance on the equitable and cost-effective use of technology, studies effective ways to apply technological resources to the classroom, and coordinates existing efforts in using educational technologies. Specifically, this legislation:

Establishes an Assistant Secretary for Educational Technology within the Department of Education and a National Commission on Technology in Education to provide leadership in technology education;

Provides Federal funding for education planning, teacher training, equipment purchases by disadvantaged schools, educational technology research, and extends authorization of the Star Schools Program;

Creates a national system for disseminating educational information; and

Supports the development of high quality curriculum-based software, instructional broadcasting, and video programming.

This week, the Labor and Human Resources Committee reported out the Goals 2000: Educate America Act with additional provisions for national skill standards. The legislation establishes a national board to stimulate the development and adoption of a voluntary national system of skill standards, assessment, and certification. In order to enhance work force skills, the national skill standards will increase productivity, economic growth, and American economic competitiveness. The Technology for Education Act of 1993 will better enable the school systems to meet these new standards in preparing today's students for the crucial transition from school to the work force.

This legislation enables our educational system to provide students equal access to high quality instruction in an intellectually stimulating manner, regardless of whether students live in the inner city, the rural countryside, or the suburbs. Educational technology is our ticket to reform and restructure the classroom of today and transform our schoolrooms into the 21st century.

Mr. President, I ask unanimous consent that the text of the bill and an executive summary be printed in the RECORD.

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

S. 1040

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technology for Education Act of 1993".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Statement of purpose.
Sec. 4. Definitions.

TITLE I—LEADERSHIP FOR TECHNOLOGY IN EDUCATION

Sec. 101. Office of Educational Technology.
Sec. 102. National Commission on Technology in Education.

TITLE II—SCHOOL TECHNOLOGY SUPPORT

Sec. 201. Statement of purposes.
Sec. 202. State technology planning grants.
Sec. 203. Elementary and secondary school library and media services.
Sec. 204. School technology resource grants and loans.
Sec. 205. Information dissemination.

TITLE III—INFORMATION DISSEMINATION, TECHNOLOGY TRAINING AND TECHNICAL ASSISTANCE

Sec. 301. Statement of purpose.
Sec. 302. Electronic dissemination network.
Sec. 303. Regional implementation and assistance.
Sec. 304. Authorization of appropriations.

TITLE IV—EDUCATIONAL TECHNOLOGY PRODUCT DEVELOPMENT, PRODUCTION, AND DISTRIBUTION

Sec. 401. Statement of purpose.
Sec. 402. Priority in federally supported education programs.
Sec. 403. Classrooms for the future.
Sec. 404. Instructional broadcasting and video instructional programming.
Sec. 405. Star Schools Program.

TITLE V—EDUCATIONAL TECHNOLOGY RESEARCH, DEVELOPMENT AND ASSESSMENT

Sec. 501. Purposes.
Sec. 502. Application of advanced technologies to education.
Sec. 503. High performance educational computing and telecommunications networks.
Sec. 504. Assessment of technology in education.

TITLE VI—MISCELLANEOUS

Sec. 601. Study of systemic funding alternatives.
Sec. 602. Participation of private school children.

SEC. 2. FINDINGS.

The Congress finds that with respect to the use of technology to improve education in America—

(1) the use of technology as a tool in the learning process is essential to the development and maintenance of a technologically literate citizenry and internationally competitive work force;

(2) technology-enhanced curriculum, instruction, and administrative support resources and services that support the National Education Goals and any national education standards that may be developed are needed and can be used for the systemic improvement of all aspects of education;

(3) the acquisition and use of technology in education throughout the United States has

been inhibited by the absence of Federal leadership, the inability of many State and local educational agencies to invest in and support the needed technologies, and the limited availability of appropriate technology-enhanced curriculum, instruction, teacher training, and administrative support resources and services in the educational marketplace;

(4) national educational technology standards and national educational technology application standards should be developed for both hardware and software;

(5) the acquisition and use of technology-enhanced curriculum, instruction, and administrative support resources and services by elementary and secondary schools in the United States must be supported by a comprehensive system which includes—

(A) national leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction, and administrative programs and services for educational institutions in the United States and the schools of the defense dependents' education system;

(B) funding mechanisms which will support development interconnection, implementation, improvement and maintenance of an effective educational technology infrastructure for all learners in the United States;

(C) information dissemination networks to facilitate access to information on effective learning programs, assessment and evaluation of such programs, research findings, and supporting resources (including instructionally based, technology-enhanced programs, research, and resources) by educators throughout the United States;

(D) information regarding curriculum content standards, teacher performance standards, opportunity to learn standards, and assessments and standards for integrating technology into curriculum and instruction;

(E) an extensive variety of opportunities for teacher education, inservice training, and administrator training and technical assistance with respect to effective uses of technologies in education;

(F) consortia for the development, production, distribution, and reuse of technology-enhanced curriculum, instruction and administrative support resources and services with Federal assistance;

(G) building upon, and not duplicating, existing telecommunications infrastructure dedicated to educational purposes;

(H) development and evaluation of new and emerging educational technologies and telecommunications networks; and

(I) assessment data regarding state-of-the-art uses of technologies in United States education upon which businesses, noncommercial telecommunications entities, and governments can rely for decisionmaking about the need for, and provision of, appropriate technologies for education in the United States;

(6) educational equalization concerns and school restructuring needs can be addressed through educational telecommunications and technology by offering universal access to high-quality teaching and programs, particularly in urban and rural areas;

(7) in an increasingly technological world where technology and telecommunications have become an integral part of many households, the disparity between rich and poor students will become even greater, and educational policies must address such disparity;

(8) the increasing use of new technologies and telecommunications systems in business has furthered the gap between schooling and work force preparation; and

(9) improved professional development for teachers requires constant access to updated research in teaching and learning, and telecommunications can be the conduit for ongoing teacher training.

SEC. 3. STATEMENT OF PURPOSE.

It is the purpose of this Act—

(1) to develop and maintain a technologically literate citizenry and internationally competitive work force by encouraging systemic integration of technology and telecommunications in all aspects of education in the United States;

(2) to promote greater equality of educational opportunity and instruction among school districts through the use of technology to improve the academic achievements of all students, in general, and disadvantaged, disabled, and limited-English proficient students, in particular;

(3) to improve educational quality and opportunity by expanding and improving technology in the school, classroom, library, and home;

(4) to develop educational and instructional programming in critical subject areas which address the National Education Goals;

(5) to expand teacher training opportunities for the use of such technology;

(6) to avoid duplication and the development of incompatible systems by strengthening and building upon existing telecommunications infrastructure dedicated to educational purposes;

(7) to establish a National Commission on Technology in Education to periodically assess national requirements, make recommendations with respect to the use of technology and telecommunications in public and private elementary and secondary education throughout the United States, and advise the Congress with respect to funding priorities and needed policies; and

(8) to establish within the Department of Education, a high level office with primary responsibility for—

(A) providing national leadership for universal access to effective uses of telecommunications and educational technologies for teaching and learning;

(B) facilitating access to a broad range of information resources for teachers, learners, and others engaged in education;

(C) establishing technical standards and guidelines for advanced technologies, including software as well as hardware, and instructional software as well as software for operating systems and communications;

(D) establishing funding mechanisms which will support the development and maintenance of an effective educational technology infrastructure for all learners in the United States;

(E) providing for sustained teacher, administrator and other school personnel education and support for using technologies;

(F) supporting development, production, distribution, and reuse of information resources and strategies;

(G) promoting development and evaluation of new and emerging educational technologies;

(H) stimulating private and public partnerships;

(I) stimulating partnerships between—

(i) noncommercial telecommunications entities; and

(ii) public schools, local educational agencies or State educational agencies;

(J) stimulating private sector investment in the development, production, and distribution of technology-enhanced curriculum, instruction, and administrative support resources and services; and

(K) developing and administering a comprehensive system of information dissemination, technical assistance, training, research, and assessment activities which will enable all schools to effectively utilize appropriate technology-enhanced curriculum, instruction, and administrative support resources and services.

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—The terms used in this Act, unless otherwise specified, shall have the same meaning given to such terms by section 1471 of the Elementary and Secondary Education Act of 1965.

(b) ADDITIONAL DEFINITIONS.—For the purpose of this Act—

(1) the term "Assistant Secretary" means the Assistant Secretary for Educational Technology;

(2) the term "Office" means the Office of Educational Technology;

(3) the term "noncommercial telecommunications entity" has the same meaning given to such term by section 397(7) of the Communications Act of 1934; and

(4) the term "technology" includes closed circuit television systems, educational television and radio broadcasting, cable television, satellite, copper and fiber optic transmission, computer, video and audio laser and CD ROM discs, video and audio tapes or other technologies.

TITLE I—LEADERSHIP FOR TECHNOLOGY IN EDUCATION

SEC. 101. OFFICE OF EDUCATIONAL TECHNOLOGY.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—

(1) ASSISTANT SECRETARY.—(A) Section 202 of the Department Organization Act (20 U.S.C. 3412(b)(1)) is amended—

(i) in subparagraph (F), by striking "and" after the semicolon;

(ii) by redesignating subparagraph (G) as subparagraph (H); and

(iii) by adding after subparagraph (F) the following new subparagraph:

"(G) an Assistant Secretary for Educational Technology; and".

(B) Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Assistant Secretary for Educational Technology".

(2) OFFICE OF EDUCATIONAL TECHNOLOGY.—Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following new section:

"OFFICE OF EDUCATIONAL TECHNOLOGY

"SEC. 216. (a) There shall be in the Department of Education an Office of Educational Technology, to be administered by the Assistant Secretary for Educational Technology. Such Office shall be established in accordance with section 405A of the General Education Provisions Act.

"(b) The Assistant Secretary for Educational Technology shall have demonstrated expertise and experience in the application of a broad range of technologies for instruction and educational management, and in planning and formulating policy pertaining to technology use, development and application at several levels in the education system but with specific emphasis on experience in the kindergarten through 12th grade.

"(c) There shall be in the Office of Educational Technology a Division of Elementary and Secondary School Library Media Services, to be administered by the Director of the Division. Such Division shall be established in accordance with section 405B of the General Education Provisions Act.".

(b) AMENDMENT TO THE GENERAL EDUCATION PROVISIONS ACT.—Part A of the General Education Provisions Act (20 U.S.C. 1221e et seq.) is amended by inserting after section 405 the following new section:

"SEC. 405A. OFFICE OF EDUCATIONAL TECHNOLOGY.

"(a) ESTABLISHMENT.—

"(1) OFFICE ESTABLISHED.—The Secretary shall establish an Office of Educational Technology (hereafter in this section referred to as the 'Office') within 90 days after the date of enactment of the Technology for Education Act of 1993. The Office shall be the principal technology unit in the Department of Education and shall be responsible for assisting schools in obtaining and utilizing technology.

"(2) PERSONNEL.—

"(A) IN GENERAL.—The Assistant Secretary for Educational Technology (hereafter in this section referred to as the "Assistant Secretary") may appoint personnel in accordance with title 5 of the United States Code, and may compensate such personnel in accordance with the General Schedule described in section 5332 of title 5, United States Code.

"(B) EXPERTS AND CONSULTANTS.—The Assistant Secretary may procure temporary and intermittent services under section 3019(b) of title 5, United States Code, if the individual performing such services, by virtue of such individual's education or training and experience, is eminently qualified to assist the Office in performing the functions of the Office.

"(3) ADMINISTRATIVE SUPPORT.—To the greatest extent possible, the Assistant Secretary shall utilize existing administrative support services of the Department of Education in accomplishing the functions of the Office. However, the Assistant Secretary is authorized to obtain any or all requisite administrative support services required by the Office through competitive contracting with a private sector enterprise or through noncompetitive, reimbursable service agreements with any other Federal department, agency or governmental entity. The Assistant Secretary shall have sole responsibility for determining whether any or all of the administrative support requirements of the Office may be more efficiently provided by existing administrative support services within the Department of Education, by a private sector enterprise, or by a governmental entity outside the Department of Education.

"(4) REPORTING REORGANIZATIONS.—Any change in the functions or reorganization of the Office as established by this Act shall be reported to the Congress prior to implementation of the change or reorganization.

"(b) FUNCTIONS OF THE OFFICE.—The Assistant Secretary, through the Office, shall—

"(1) provide national leadership for policy development and coordinate technology-related education activities within the Department of Education;

"(2) be an advisor within the Department of Education for the design, coordination, and evaluation of any technology-enhanced network or system used for the transfer and dissemination of information through activities and programs such as the education resources information clearinghouses, the National Diffusion Network, the regional mathematics and science education consortia assisted under subpart 2 of part A of title II of the Elementary and Secondary Education Act of 1965, and the National Clearinghouse for Science, Mathematics and Technology Education;

"(3) administer a comprehensive school technology support system of grants, loans, and alternative systemic funding sources to encourage—

"(A) State and local educational agency planning for the use of technology in education;

"(B) the acquisition and use of technology advanced information management resources by public or private elementary and secondary school library media centers, which resources shall build upon existing infrastructure; and

"(C) the acquisition, development and maintenance of technology-enhanced curriculum, instruction, and administrative support resources and services for school classrooms and administrative offices, which resources and services shall build upon existing infrastructure in order to avoid duplication;

"(4) consult, cooperate and coordinate educational technology programs with analogous programs of other Federal departments, agencies and other entities, including the National Science Foundation, the Federal Coordinating Council for Science Engineering and Technology, the Corporation for Public Broadcasting, and Public Telecommunications Facilities Program and, whenever possible, initiate agreements for joint funding of such educational technology and analogous programs;

"(5) support the research, design, development, production, distribution, reuse and evaluation by public or private agencies, nonprofit organizations, colleges and universities, or individuals, or by combinations thereof, of new technology-enhanced curriculum, instruction, and administrative support resources and services which hold promise for improving the effectiveness of education in the United States;

"(6) make recommendations to all Federal departments and agencies for wider application of the use of technology in federally supported education programs within such departments and agencies;

"(7) support and encourage cooperative efforts to resolve issues which have served as impediments to the use of educational technologies, such as State requirements for teacher certification, incompatibility of various technological systems, and lack of access to telecommunications linkages in the classroom;

"(8) establish and administer alternative mechanisms for financing the planning, implementation, and maintenance of a telecommunications and educational technology infrastructure to serve education at all levels;

"(9) regularly convene meetings of educators, policy makers, business leaders and telecommunications and educational technology vendors, and representatives of noncommercial telecommunications entities and service providers in order to—

"(A) support appropriate public and private partnerships for more effective cooperation leading to improvements in the design and development of new technologies for application in education; and

"(B) benefit the effective integration of technologies to enhance and support teaching and learning;

"(10) support research on advanced learning technologies in cooperation with other Federal departments, agencies, and programs, including the Advanced Research Projects Agency (ARPA) of the Department of Defense, the Advanced Technology Program of the Department of Commerce, the Corporation for Public Broadcasting, the Department of Labor, the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, and the Department of Defense;

"(11) identify and analyze Federal and State policies' impact on present and future uses of technologies in education;

"(12) support and encourage cooperative efforts to develop standards and guidelines for the use of technology in Federal, State and local education programs;

"(13) promote collaboration among government, business, educational organizations, and other nonprofit organizations and noncommercial telecommunications entities, to expand and improve the use of technology in education;

"(14) support a variety of opportunities for teacher, librarian, administrator and other school personnel education and inservice training regarding the effective uses of educational technologies through institutions of higher education, regional educational laboratories and centers, State and local educational agencies, museums, science centers, noncommercial telecommunications entities or other institutions conducting training;

"(15) annually evaluate the level of implementation of, and the impact on teaching and learning resulting from, programs, projects and activities for which the Office is responsible;

"(16) support inclusion of technology applications, as appropriate, in the development of National Education Goals, reform initiatives, and assessment systems;

"(17) develop criteria that identify programs, projects, and practices that effectively use technologies for national dissemination;

"(18) develop, and update periodically, in cooperation with other Federal, State and regional agencies, and noncommercial telecommunications entities, as appropriate, a long-range strategic plan for implementing telecommunications and educational technologies in all schools;

"(19) assess and determine school technology needs such as development, training and equipment linkages;

"(20) review factors such as cost, dissemination, audience, accessibility, and usage in determining the maximum value of various technologies;

"(21) develop and administer special programs for students who are academically disadvantaged, impaired or limited in their use of the English language, in order to make available affordable infrastructure or appropriate methods of instruction that will improve such students' ability to attain a high level of academic achievement;

"(22) coordinate Federal, State, and local telecommunications franchising authorities for purposes of favorable rate regulations governing educational uses of telecommunications;

"(23) provide leadership for the development of universal connections for educational and information providers to national high performance educational computing and communications networks, including the National Research Education Network and Telstar 401, that will allow educational professionals, students, parents, and the general public to access resources available through such networks;

"(24) support and coordinate the activities of the regional educational technology assistance consortia described in section 304 of the Technology for Education Act of 1993 to enable schools to utilize technology-enhanced curriculum, instruction, and administrative support resources and services; and

"(25) provide an annual report to the Secretary and the Congress, documenting

progress toward implementing the provisions of the Technology For Education Act of 1993.

"(c) ADDITIONAL OFFICE ACTIVITIES.—The Assistant Secretary shall provide technical support related to the application of educational technologies and the use of telecommunication resources to assist in the dissemination of resources identified for dissemination by the Office of Training Technology Transfer, the education resources information clearinghouses, the National Diffusion Network, and the Assistant Secretary on behalf of the Star Schools Program Assistance Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

SEC. 102. NATIONAL COMMISSION ON TECHNOLOGY IN EDUCATION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Commission on Technology in Education (hereafter in this section referred to as the "Commission") which shall advise the President and the Congress with respect to the need for, and the provision of, appropriate national educational technology standards, technology-enhanced curriculum, instruction, and administrative resources and services for educational institutions in the United States.

(b) MEMBERSHIP.—

(1) APPOINTMENT OF MEMBERS.—The President shall appoint 15 members to the Commission, of which—

(A) three shall be appointed because of their expertise in State and local government;

(B) three shall be appointed because of their expertise in the governance or supervision of school district operations, in administering State- or district-wide educational technology programs, in administering elementary or secondary schools, or in the development of technology-enhanced curriculum, instruction, or administrative support programs or services;

(C) four shall be appointed because of their expertise in providing instructional services in university, community college, secondary school, elementary school, preschool, and adult and continuing education environments;

(D) two shall be—

(i) a parent of a school age child; or

(ii) a State or local school board member; and

(E) three shall be appointed because of their expertise in the telecommunications industry (including noncommercial communications), the computer hardware or software industry, or the educational technology resources and services industry.

(2) TERMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Commission shall be appointed for terms of 4 years. Members of the Commission may be reappointed.

(B) STAGGERED TERMS.—As designated by the President at the time of initial appointments under paragraph (1), the terms of 5 members shall expire at the end of 3 years, the terms of 5 members shall expire at the end of 4 years, and the terms of 5 members shall expire at the end of 5 years.

(3) DATE.—The appointments of members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(4) DIVERSITY.—The President shall make appointments to the Commission by providing due consideration to gender and ethnicity in order to obtain members who are broadly representative of the ethnic diversity of the United States.

(5) LIMITATION ON DUAL APPOINTMENTS.—A member of the Commission may not serve on any other governing or advisory board within—

(A) the Department of Education; or

(B) any other department or agency of the Federal Government.

(6) CONFIRMATION.—Appointments to the Commission shall be effective upon confirmation by the United States Senate.

(7) SELECTION OF CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among their membership by majority vote of the members of the Commission. The Chairperson shall serve a term of not more than 4 years.

(8) COMPENSATION OF MEMBERS.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the performance of duties of the Commission, as authorized by the Chairperson of the Commission.

(c) PERSONNEL.—

(1) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Commission shall receive administrative support services from the Office.

(2) EXECUTIVE SECRETARY.—The Assistant Secretary shall serve as the Executive Secretary of the Commission in order to facilitate accomplishment of the Commission's functions.

(d) MEETINGS OF THE COMMISSION.—

(1) APPLICABILITY OF THE GOVERNMENT IN THE SUNSHINE ACT.—The provisions of the Government in the Sunshine Act (5 U.S.C. 552b) shall apply to meetings of the Commission.

(2) MINIMUM NUMBER OF MEETINGS; FIRST MEETING.—The Commission shall meet at least twice a year, with the first meeting being held within 120 days of the date of enactment of this Act.

(3) FREQUENCY OF MEETINGS.—With the approval of the Chairperson of the Commission and subject to the availability of funds appropriated pursuant to the authority of subsection (f), members of the Commission may meet as often as the Commission determines necessary in order to accomplish the functions of the Commission in a timely manner.

(4) QUORUM.—A majority of the Commission shall constitute a quorum for the purpose of conducting the business of the Commission.

(e) FUNCTIONS.—The functions of the Commission are as follows:

(1) IDENTIFY NATIONAL EDUCATIONAL TECHNOLOGY REQUIREMENTS.—

(A) TECHNOLOGY INITIATIVES.—The Commission shall review Federal, State, and local educational technology initiatives, assess their effectiveness and potential for the improvement of education, and make recommendations to the Secretary and the Congress with respect to what technologies are needed and should be made available to learners in the United States.

(B) NEEDS.—The Commission shall review the needs of schools and educational institutions for technology, and make Federal policy recommendations for meeting such needs. Such review shall include factors such as equity, accessibility, how many children are reached, cost, quality and demonstrated effectiveness.

(2) PROVIDE RECOMMENDATIONS WITH RESPECT TO DEPARTMENTAL TECHNOLOGY IN EDUCATION PROGRAMS.—The Commission shall review and make recommendations to the Secretary and the Assistant Secretary with respect to the need for, operation of, effectiveness of, and support and resources available for, educational technology programs and policies throughout the Department of Education and within the Office.

(3) INDUSTRY, TECHNOLOGY AND EDUCATIONAL CONSORTIA.—The Commission shall encourage the development of consortia consisting of a representative of the telecommunications and technology industries, and the education community, in order to promote the collaborative development and implementation of educational technologies, projects, and practices that allow for the sharing of public and private resources to enhance school achievement.

(4) MAKE RECOMMENDATIONS WITH RESPECT TO THE COORDINATION OF FEDERAL PROGRAMS.—The Commission shall review support and resources available for educational technologies used in Federal programs operating on the date of enactment of this Act and make recommendations to the Secretary and the Congress with respect to the coordination and resource level required to achieve the most effective Federal support for educational technology needs.

(5) DEVELOP POLICY RECOMMENDATIONS.—The Commission shall consult with persons having an interest in the uses of technology to support teaching and learning in order to ensure that the interests and concerns of all citizens are represented in national policies for the development, implementation and evaluation of the educational technology infrastructure of the United States.

(6) COMMITTEE OF EXPERTS.—The Commission shall appoint a committee of experts representing the telecommunication, computer hardware and software industries, educational software developers, noncommercial telecommunications entities, and the elementary and secondary education community to explore the feasibility and desirability of national education guidelines or standards for educational hardware and software. Such committee shall produce a report which, at a minimum, examines—

(A) standards to ensure that software can be used on the variety of hardware likely to be available in schools;

(B) multimedia standards to allow for the integration of video and audio recordings with text and computer graphics;

(C) user interface standards so that teachers and students will not have to learn totally new techniques for using new software packages;

(D) database interface standards so that students can integrate information from national databases into their work;

(E) communication standards such as those for information exchange and video compression;

(F) interface standards so that educational software and other technology may be integrated together in a way that is easy to use and maintain; and

(G) standards for collecting data about student performance and achievement to guide individual instructional paths and the refinement of curriculum.

(6) REPORT.—

(A) IN GENERAL.—The Commission shall prepare and submit to the President, the Secretary and the Congress a report every 2 years on the need for the development and implementation of instructionally based technologies in educational curriculum throughout the United States. At a minimum, the Commission's report shall include

recommendations with respect to the status of the implementation of the provisions of this Act.

(B) SUBMISSION.—The report described in subparagraph (A) shall be submitted in accordance with such subparagraph within 2 years of the date of enactment of this Act and every 2 years thereafter.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) SALARIES AND EXPENSES.—There are authorized to be appropriated $1,500,000 for each of the fiscal years 1994 through 1998 for the salaries and expenses of the Commission.

(2) FUNCTIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out this section.

TITLE II—SCHOOL TECHNOLOGY SUPPORT

SEC. 201. STATEMENT OF PURPOSES.

It is the purpose of this title to provide Federal assistance in the form of loans, grants, and systemic funding alternatives to support the acquisition, training, use and maintenance in elementary and secondary schools of technology-enhanced curriculum, instruction, and school administration.

SEC. 202. STATE TECHNOLOGY PLANNING GRANTS.

(a) PURPOSE.—It is the purpose of this section to ensure that all States have effective plans for the provision of technology in all schools throughout the State.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Assistant Secretary shall award grants to State educational agencies, who in consultation with the Governor and other appropriate State agencies, shall develop a systemic statewide plan to infuse modern technologies into an educational program to enhance student learning and staff development in support of the National Education Goals and State academic standards.

(2) REQUIREMENTS.—Such plan shall—

(A) develop and implement a high speed, statewide, interoperable, wide area communication educational technology infrastructure for all elementary and secondary education institutions within the State; and

(B) emphasize the participation of schools with a high percentage of disadvantaged students.

(c) CONTENT OF PLANS.—At a minimum, each systemic statewide plan described in subsection (b) that is developed in whole or in part, with grant funds under this section, shall—

(1) be developed in collaboration with the Governor, representative of the State legislature, State school boards, other appropriate State agencies, and noncommercial telecommunication entities through a representational process involving input from communities throughout the State;

(2) identify requirements for infusing modern technologies into the classroom to enhance educational curricula;

(3) describe how the application of telecommunications, computer networks, and related advanced technologies in the schools will enhance the curriculum, provide greater access and equity for more students, and help achieve the National Education Goals;

(4) provide for the ongoing training of educational personnel to integrate educational technologies in the classroom and other applications of technology in education;

(5) establish a mechanism for statewide dissemination of exemplary programs and practices;

(6) include an estimate of the funding and resources needed to develop and maintain the requisite educational technology infrastructure identified in the plan, including the appropriate use of other Federal education funds available to the State or local educational agency;

(7) establish a schedule for the development and implementation of the planned educational technology infrastructure;

(8) develop a plan for the coordination and distribution of grants under this section, section 204, and section 405B(b)(1)(B) of the General Education Provisions Act;

(9) describe how the State educational agency will utilize the services and resources of the regional educational technology assistance consortia;

(10) distribute guidelines to all elementary and secondary schools and educational agencies in the State related to the various programs and initiatives assisted under this Act;

(11) describe how the State will assess the level of—

(A) the statewide implementation of such plan;

(B) the increased access by the elementary and secondary schools to technology-enhanced resources assisted under this section; and

(C) the impact of such plan on school achievement;

(12) describe how State and local educational agencies will coordinate and cooperate with business and industry, as well as noncommercial telecommunications entities to implement standards to meet work force training needs;

(13) describe how the State educational agency will promote the purchase of equipment by local school districts and schools that, when placed in operation, will meet the highest level of interoperability and open system design among—

(A) technology hardware and software, either when used on a stand-alone basis or when connected together within a local area network or a wide area network; and

(B) schools within the State;

(14) will utilize existing telecommunications infrastructure and technology resources; and

(15) create a planning process through which such plan is reviewed and updated periodically.

(d) AMOUNT OF GRANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Assistant Secretary shall award grants under this section to each State, in each fiscal year, in an amount which bears the same relationship to the amount appropriated pursuant to the authority of subsection (e) as the amount such State received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 in such year bears to the amount received under such chapter by all States in such year.

(2) MINIMUM.—No State shall receive a grant under subsection (b) in an amount which is less than $100,000.

(3) STATE MATCHING.—

(A) STATE.—Each State receiving a grant under this section shall provide matching funds in an amount equal to 20 percent of such grant funds.

(B) WAIVER.—The Secretary may waive the State matching requirement described in subparagraph (A) for good cause, as determined by the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for the fiscal year 1994, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

SEC. 203. ELEMENTARY AND SECONDARY SCHOOL LIBRARY AND MEDIA SERVICES.

Title IV of the General Education Provisions Act (20 U.S.C. 1221 et seq.) is further amended by adding after section 405A (as added by section 101(b)) the following new section:

"SEC. 405B. ELEMENTARY AND SECONDARY SCHOOL LIBRARY AND MEDIA SERVICES.

"(a) ESTABLISHMENT.—The Assistant Secretary shall establish a Division of Elementary and Secondary School Library Media Services (hereafter in this section referred to as the 'Division') within the Office of Educational Technology within 90 days of enactment of the Technology for Education Act of 1993. Such division shall consist of a Director, who shall have primary responsibility for the daily operation of the Division, and of such staff as may be needed to carry out the functions described in subsection (b).

"(b) FUNCTIONS.—

"(1) IN GENERAL.—The Division shall—

"(A) provide information and leadership to elementary and secondary school library media specialists, teachers, and school administrators with respect to—

"(i) the effective operation of library media resources;

"(ii) methods of improving educational programs;

"(iii) training of library media personnel; and

"(iv) the development of library media resources, including resources that will encourage students to acquire skills in other languages; and

"(B) develop, implement and administer grant programs, on a competitive basis, for—

"(i) elementary and secondary school library media center resource development, including projects that—

"(I) enable school library media centers to acquire technologically advanced information management resources;

"(II) provide increased student access to library media center resources through the use of modern information resource technologies; and

"(III) assist in the implementation of distance learning via satellite, microwave, fiber, picture telephones and other visual media;

"(ii) elementary and secondary school library media specialist and teacher partnership for innovative education projects that—

"(I) encourage collaboration between elementary and secondary school library media specialists and teachers in order to develop units of instruction that enable students to use a variety of technologically advanced information resources; and

"(II) expand students' information-gathering abilities and cognitive skills of selection, analysis, evaluation, and application; and

"(iii) technology in the classroom projects that are linked to a library media center in order to—

"(I) expand the use of computers and computer networks in the curriculum;

"(II) enable elementary and secondary school library media centers to access information from computerized databases and other technologically advanced methods of access to information; and

"(III) assist in the implementation of distance learning via satellite, microwave, fiber, picture telephones and other visual media.

"(2) SPECIAL RULE.—In awarding grants under paragraph (1)(B) the Assistant Secretary shall—

"(A) award grants to schools with the greatest need for library materials and services; and

"(B) ensure that such grants are awarded on an equitable geographic basis.

"(c) COOPERATIVE AGREEMENTS.—The Director of the Division is authorized to enter into such cooperative agreements with the Department of Education, the National Science Foundation, other Federal departments or agencies, noncommercial telecommunications entities, or nonprofit organizations, as the Director determines is necessary to carry out the provisions of this section.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to interfere with State and local initiative and responsibility in the conduct and support of school library media services, the administration of school library media centers, or the selection of personnel or library books and resources.

"(e) SUPPLEMENTATION.—Funds provided under this section shall be used so as to supplement and not to supplant other Federal, State, or local funds available to carry out the activities and services assisted under this section, including funds made available to elementary and secondary school library media centers under the Technology for Education Act of 1993.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $45,000,000 for fiscal year 1994, and such sums as may be necessary in each succeeding fiscal year, to carry out this section, of which—

"(1) $15,000,000 shall be available in each such fiscal year to carry out subsection (b)(2)(A);

"(2) $15,000,000 shall be available in each such fiscal year to carry out subsection (b)(2)(B); and

"(3) $15,000,000 shall be available in each such fiscal year to carry out subsection (b)(2)(C).".

SEC. 204. SCHOOL TECHNOLOGY RESOURCE GRANTS AND LOANS.

(a) IN GENERAL.—

(1) IN GENERAL.—The Assistant Secretary shall award grants to State educational agencies having a plan approved under section 202 in order to enable such agencies to provide assistance to local educational agencies and schools having highest percentages of children in poverty and showing the greatest need for technology to enable such local educational agencies and schools to purchase quality technology related equipment, technology-enhanced curriculum, instruction, and administrative support resources and services that improve the instructional programs in schools.

(2) AMOUNT.—(A) Except as provided in subparagraph (B), the Secretary shall award grants under this section to each State educational agency in an amount which bears the same relationship to the amount appropriated pursuant to the authority of subsection (b) as the amount such State received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 bears to the amount received under such chapter by all States.

(B) No State educational agency shall receive a grant pursuant to subparagraph (A) in an amount which is less than $100,000.

(3) LIMITATION ON STATE COSTS.—Not more than 5 percent of grant funds awarded to a State educational agency under this section may be used by the State or State educational agency for administrative costs or technical assistance.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for fiscal year 1994, and such sums as may be necessary in each succeeding fiscal year, to carry out this section.

(c) LOCAL USES OF GRANT FUNDS.—Each local educational agency or school receiving assistance under this section may use such assistance—

(1) to acquire technology-enhanced education resources and services, such as computer hardware, software, and telecommunications services, for use by teachers and students in the classroom in order to support the instructional program offered by schools to assure that students in such schools will have meaningful access on a regular basis to such resources and services;

(2) for staff development in the integration of quality instructional educational technologies into school curriculum and long-term planning for implementing educational technologies;

(3) to acquire connectivity with wide area networks, such as the INTERNET, for purposes of accessing information and educational programming sources outside the local educational agency or school;

(4) for necessary site preparation for the installation of technology-enhanced curriculum, instruction, and administrative support resources and services, except that such acquisitions may not exceed 25 percent of the amount of the assistance provided under this section;

(5) for ongoing technology training and staff development services, resources, or programs that instruct teachers and administrators in the effective integration of technology in the classroom through ongoing, onsite consultation; and

(6) to establish partnerships consisting of a representative of a local educational agency, a college or university, and any other agency the Assistant Secretary deems appropriate, for development and implementation of preservice education programs to train teachers in the application of instructional-based technologies in the curriculum.

(d) SCHOOL PLANS.—Each local educational agency or school desiring assistance under this section shall submit a plan to the State educational agency at such time and in such manner as such agency may prescribe. Such plan shall—

(1) include a strategic, long-range (3- to 5-year), outcome-based plan that includes—

(A) a process for the ongoing evaluation of how technologies acquired under this section—

(i) are being implemented into the school curriculum; and

(ii) are impacting student achievement; and

(B) a description of how the local educational agency or school has involved parents, business leaders and community leaders in the development of such plan;

(2) describe how the assistance will be used to further access for both teachers and students to best teaching practices and best curriculum resources that are aligned with any national educational standards that may be developed;

(3) describe the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies;

(4) include the projected cost of technologies to be acquired and related expenses needed to implement the plan;

(5) include the projected timetable for implementing the technologies in schools;

(6) include an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency or school enhance teaching, training, and student achievement;

(7) describe how the acquired instructionally based technologies will help the local educational agency or school achieve equity in curricular offerings;

(8) describe the supporting resources such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

(9) describe how the instructionally based technologies and resources will support any State and national content and teaching educational standards that may be developed;

(10) describe how the local educational agency or school will ensure ongoing, sustained staff development for teachers and administrators in the local educational agency or school regarding the use of technology in the classroom, and contain a list of the source or sources of ongoing training available to such teachers and administrators, such as State technology offices, intermediate educational support units, regional educational laboratories, or institutions of higher education;

(11) describe identifiable, measurable outcome-based levels of achievement in the implementation of the plan that can be used to determine progress and to support decisions to provide additional funds; and

(12) describe how the local educational agency or school will promote the sharing, distribution, and reuse of applications of educational technology that are determined by such agency to be effective in individual schools.

(e) TECHNOLOGY LOANS.—Subsection (a) of section 751 of the Higher Education Act of 1965 (20 U.S.C. 1132f(a)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) by redesignating paragraph (3) as paragraph (4);

(3) by adding after paragraph (2) the following new paragraph:

"(3) guarantee, insure or reinsure low-interest, long-term loans to State educational agencies and local educational agencies in order to enable such agencies to obtain resources for distance learning, computer networks and other technology-enhanced curriculum, instruction, and administrative support resources and services that are used in the education process; and"; and

(4) in paragraph (4) (as redesignated by paragraph (2)), by striking "and (2)" and inserting ", (2) and (3)".

SEC. 205. INFORMATION DISSEMINATION.

The Assistant Secretary and National Commission on Technology in Education shall compile and disseminate information on various successful models of integrating technology into education to assist State or local educational agencies, and schools in the development of systemic reform initiatives.

TITLE III—INFORMATION DISSEMINATION, TECHNOLOGY TRAINING AND TECHNICAL ASSISTANCE

SEC. 301. STATEMENT OF PURPOSE.

It is the purpose of this title to ensure that schools have access to all the resources necessary for effectively utilizing technology in the classroom by—

(1) supporting identification and dissemination of information on effective educational programs, resources and services throughout the United States, and, more specifically, to promote information dissemination through electronic means; and

(2) developing a coordinated network of educational technology assistance and training providers, such as universities, regional technology centers, museums, science centers, laboratories supported by the Department of Energy, noncommercial telecommunications entities, other nonprofit organizations, and State and local educational agencies to ensure effective utilization of technology-enhanced curriculum, instruction and educational administrative support resources and services to improve the instructional programs in schools consistent with efforts to achieve the National Education Goals and State academic standards.

SEC. 302. ELECTRONIC DISSEMINATION NETWORK.

The Assistant Secretary, in cooperation with the Federal Communications Commission, the National Science Foundation, the Department of Defense, or any other department or agency of Federal, State and local governments that the Assistant Secretary deems appropriate, shall establish an electronic network for the dissemination of educational information throughout the United States, including information about effective technology-enhanced programs, resources, and services to the extent reasonably possible, the electronic dissemination network should make use of existing networks and networks to be built for other purposes. The electronic dissemination network shall—

(1) provide sufficient staffing and other resources as may be necessary to ensure the effective operation of the Electronic Dissemination Network; and

(2) consult with educators, State and local educational agencies, telecommunications providers, and other stakeholders in the education process throughout the United States to determine information requirements and policies for the effective operation of the Electronic Dissemination Network.

SEC. 303. REGIONAL IMPLEMENTATION AND ASSISTANCE.

(a) PURPOSE.—It is the purpose of this section to establish regional educational technology assistance consortia to facilitate information dissemination, planning, resource development, implementation, and evaluation of educational technology applications by States, regional educational organizations, local educational agencies and schools.

(b) GRANTS AUTHORIZED.—

(1) AUTHORITY.—The Assistant Secretary shall make grants, on a competitive basis, to regional educational technology assistance consortia in accordance with the provisions of this section.

(2) REQUIREMENTS.—Each consortium receiving a grant under this section shall—

(A) serve 1 of the 10 regions of the United States served by a regional educational laboratory supported pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act;

(B) consist of a consortia of State educational agencies, nonprofit organizations, or a combination thereof; and

(C) in cooperation with State and local education programs, develop a regional plan that addresses staff development, technical assistance, information resource dissemination, and program evaluation and reporting needs of the region regarding educational technology.

(3) SPECIAL RULE.—Each consortium receiving a grant under this section shall use not less than 80 percent of the grant funds to carry out paragraph (3) of subsection (c).

(c) FUNCTIONS.—

(1) TECHNICAL ASSISTANCE.—Each consortia receiving a grant under this section shall—

(A) collaborate with State and local education programs in the development of State technology plans and in particular in the development of strategies for reaching those schools with highest percentages of disadvantaged students with little or no access to technology in the classroom;

(B) provide information to States, local educational agencies, and schools on the types and features of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that is suited for a program's particular needs, and compile and share information on creative applications of technology in the classroom;

(C) collaborate with State educational agencies, local educational agencies, or schools in the tailoring of software programs and other supporting materials to meet State curriculum standards and individual needs of schools and students; and

(D) provide technical assistance to facilitate use of the electronic dissemination network by State and local educational agencies and schools throughout the region;

(2) INFORMATION RESOURCE MANAGEMENT.—Each consortium receiving a grant under this section shall—

(A) assist the Office in the collection and access of information resources produced by the National Clearinghouse for Mathematics and Science Education, the regional mathematics and science consortia, the National Diffusion Network, and other educational organizations that the Assistant Secretary deems appropriate;

(B) assist in the review and documentation of effective educational programs, resources, and services created or utilized within the region;

(C) facilitate coordination and implementation of an electronic dissemination network and the distance learning described in section 907(a)(4)(B)(ii) of the Star Schools Program Assistance Act;

(D) assist the Office in designing and implementing an interactive telecommunications network to link educational agencies within and among consortia for the purpose of transferring educational information resources, including resources that utilize voice, video, data, and resources that are transmitted over satellite, microwave, cable, fiber, and other means; and

(E) establish a coordinated system of distance education involving microwave technology combined with other technology, as appropriate, that can serve to disseminate information and provide interactive staff development related to new research findings, national educational initiatives, funding and program resources, and educational technology developments and resources appropriate to teaching and learning.

(3) STAFF DEVELOPMENT.—Each consortium receiving a grant under this section shall—

(A) develop and implement, in collaboration with State educational agencies, training and technology assistance training that can be offered through site-based intensive summer and school year workshops that utilize the teachers-training-teachers model or accessed through existing and emerging distance educational resources, including—

(i) interactive satellite training telecourses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

(ii) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

(iii) methods for successful integration of instructional technology into the curriculum; and

(iv) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms;

(B) develop training resources that are—

(i) relevant to the needs of the region and schools within the region; and

(ii) aligned with the needs of educators and administrators in the region, including educators and administrators from public and private schools;

(C) establish a repository of staff development and technical assistance resources;

(D) work with existing agencies in the region to identify and link technical assistance providers to educational agencies, as needed;

(E) provide followup to ensure that training, staff development, and technical assistance meets the needs of educators served by the region; and

(F) assist colleges and universities within the region to develop and apply for funding to implement preservice training programs for students enrolled in teacher education programs.

(3) RESOURCE DEVELOPMENT.—Each consortium receiving a grant under this section shall—

(A) assist educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

(B) work with the local educational agencies to assist in the development and validation of instructionally based technology education resources;

(C) identify and provide or broker, as appropriate, human and technical resources to assist schools in the application of the resources assisted under this section; and

(D) coordinate activities and establish partnerships with national and State nonprofit professional educational organizations that represent the interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $41,000,000 for the fiscal year 1994, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title, of which—

(1) $5,000,000 shall be available for the electronic dissemination network described in section 302; and

(2) $50,000,000 shall be available to support the regional educational technology assistance consortia described in section 303.

TITLE IV—EDUCATIONAL TECHNOLOGY PRODUCT DEVELOPMENT, PRODUCTION, AND DISTRIBUTION

SEC. 401. STATEMENT OF PURPOSE.

It is the purpose of this title to support development, production, and distribution of technology-enhanced curriculum, and instruction and administrative support resources and services, by—

(1) establishing as a priority for federally supported education technology programs the development (as opposed to research) of such programs;

(2) authorizing the Assistant Secretary to support the development, production and dis-

tribution of technology-enhanced instructional resources and services under this title;

(3) providing Federal funding for the joint development, production, and distribution of resources and services by consortia of businesses and educational institutions; and

(4) providing direction for the development of the Ready To Learn Act and the Star Schools Program Assistance Act.

SEC. 402. PRIORITY IN FEDERALLY SUPPORTED EDUCATION PROGRAMS.

Notwithstanding any other provision of law, in awarding funds pursuant to any competitively awarded Federal education program administered by the Secretary, the Secretary shall ensure that a high priority is placed on funding projects that utilize technology-enhanced curriculum, instruction and administrative support resources and services.

SEC. 403. CLASSROOMS FOR THE FUTURE.

(a) SHORT TITLE.—This section may be cited as the "Technology for the Classroom Act of 1993".

(b) PURPOSE.—It is the purpose of this section to establish a program to develop and expand the use of high quality computer curriculum-based learning resources using state-of-the-art technologies and techniques which are or can be designed to increase the achievement levels of students in subject areas including mathematics, science, geography, history and language arts.

(c) ACHIEVEMENT GRANTS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—The Assistant Secretary shall award grants, on a competitive basis, to eligible consortia to enable such eligible consortia to develop computer-based instructional programs or technology-enhanced systems for complete courses or units of study for a specific subject and grade level, if such programs or systems are commercially unavailable in the local area served by such eligible consortia.

(B) ELIGIBLE CONSORTIUM.—For the purpose of this subsection the term "eligible consortium" means a consortium—

(i) that shall include—

(I) a State or local educational agency; and

(II) a business or industry; and

(ii) that may include—

(I) a public or private nonprofit organization; or

(II) a postsecondary institution.

(2) PRIORITY.—In awarding grants under this subsection, the Assistant Secretary shall give priority to applications describing programs or systems that are developed—

(A) so that the program or system may be adapted and applied nationally at a reasonable cost;

(B) to raise the achievement levels of students, particularly disadvantaged students who are not realizing their potential; and

(C) in consultation with classroom teachers.

(3) DURATION AND AMOUNT.—Each grant made under this subsection shall be awarded for a period not to exceed 3 years and in an amount not to exceed $3,000,000.

(4) MATCHING REQUIREMENT.—The Assistant Secretary shall not make a grant to an eligible consortium under paragraph (1) unless the eligible consortium agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the program or system for which the grant was awarded, the eligible consortium will make available non-Federal contributions in an amount equal to not less than 25 percent of the Federal funds provided under the grant.

(5) APPLICATION.—

(A) IN GENERAL.—Each eligible consortium desiring a grant under this subsection shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may prescribe.

(B) CONTENTS.—Each application submitted pursuant to paragraph (1) shall include—

(i) a description of how the program or system shall improve the achievement levels of students;

(ii) a description of how teachers associated with the program or system will be trained to integrate technology into the classroom;

(iii) an assurance that the program or system shall effectively serve a large number or percentage of economically disadvantaged students; and

(iv) plans for dissemination to a wide audience of learners.

(6) CRITERIA FOR AWARDING GRANTS.—In awarding a grant under this subsection to develop a program or system, the Assistant Secretary shall consider the appropriateness and quality of the following elements of the program or system:

(A) Identification of specific learning objectives and strategies of the proposed course or unit of study, that take into consideration any national education standards that may be developed for various disciplines.

(B) Incorporation in creative ways of a variety of technology-enhanced learning resources, such as computer software, databases, films, transparencies, video and audio discs, telecommunications (including educational radio and television), with print resources.

(C) Design that allows tailoring of the program or system to meet individual needs of students, particularly students at greatest risk of not reaching their educational potential.

(D) Flexibility of use by teachers or local schools.

(E) Methods for updating or revising information and resources.

(F) Programs or resources to train and guide teachers.

(G) Coordination with teacher training programs.

(H) Explanatory resources for students and parents.

(I) Field testing and evaluation in terms of stated learning objectives.

(J) Plans for pricing technology-enhanced resources that are affordable for schools and agencies.

(K) Plans for distribution that ensure access for the poorest schools and school districts.

(L) Demonstration of cost-effectiveness in relation to existing programs and to achieving stated learning objectives.

(d) FEDERAL INTERAGENCY COORDINATION.—The Assistant Secretary shall coordinate and share information regarding curriculum-based educational technology programs assisted under this section with other Federal agencies which administer programs that support the development of such programs, including the National Science Foundation, the Department of Defense, the Office of Technology Assessment, the Corporation for Public Broadcasting, the Department of Energy, and the Department of Agriculture.

(e) CONSUMER REPORT.—The Assistant Secretary shall collect information about products developed pursuant to provisions of this section and the evaluation of such products, and shall disseminate such information in regular reports to State and local educational agencies, and other organizations or individuals that the Assistant Secretary determines to be appropriate.

(f) ROYALTIES.—Notwithstanding any other provision of law, any royalties paid to any State or local educational agency as a result of assistance provided under this section shall be used by such agency for further development of curriculum-based learning resources authorized by this section.

(g) CLOSED CAPTIONING.—Each eligible consortium receiving a grant under this section shall provide closed captioning, where appropriate.

(h) AUTHORIZATION OF FUNDS.—For the purpose of carrying out this section, there are authorized to be appropriated $45,000,000 for the fiscal year 1994 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 404. INSTRUCTIONAL BROADCASTING AND VIDEO INSTRUCTIONAL PROGRAMMING.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to support the development of long-term comprehensive instructional programming and associated support resources for elementary and secondary grade core curricula outlined in the National Education Goals so that such resources are distributed electronically to the broadest possible segments of education in the United States and are stored in archival formats that assure maximum access by all educational institutions.

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—(A) The Assistant Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible educational telecommunications partnerships to pay the Federal share of the cost of the research, production, and distribution of instructional programming for students, and staff development programming for teachers.

(B) For the purpose of this section the term "programming" means the full range of audio and video text and graphics used for education and instruction which can be distributed through interactive, command and control or passive methods.

(2) DURATION.—The Assistant Secretary shall award grants and enter into contracts or cooperative agreements pursuant to paragraph (1) for a period of not more than 5 years.

(3) LIMITATION.—An eligible educational telecommunications partnership may not receive assistance under this section unless such entity has certified that all educational programming prepared and distributed by such partnership, where appropriate, contains closed captioning of the verbal content of such program to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies, unless the provision of closed captioned broadcasting would cause undue administrative or financial burden.

(4) RENEWALS.—Grants awarded and contracts or cooperative agreements entered into pursuant to paragraph (1) may be renewed to update and expand such resources.

(5) COLLABORATION.—Each eligible educational telecommunications partnership receiving assistance under this section shall collaborate and consult with appropriate education entities in designing the instructional components of programming to ensure that such components are relevant to national and State curriculum frameworks.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $15,000,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year, to carry out this section.

(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

(d) FEDERAL SHARE.—The Federal share of a grant, contract or cooperative agreement under this section in any fiscal year shall not exceed 75 percent.

(e) COORDINATION.—The Department of Education, the National Science Foundation, the Department of Energy, the Department of Agriculture, the Department of Commerce, the Corporation for Public Broadcasting, the public broadcasting services, and any other Federal agency funding educational programming for children may coordinate with and jointly fund activities assisted under this section.

(f) ELIGIBLE EDUCATION TELECOMMUNICATIONS PARTNERSHIPS.—For the purpose of this section, the term "eligible educational telecommunications partnership" means a partnership consisting of the following entities:

(1) A noncommercial telecommunications entity with a demonstrated record of the production of high quality educational video programming.

(2) A recognized organization knowledgeable about the requirements of implementing within or across a content area a curriculum compatible with proposed or established voluntary national content standards, such as an institution of higher education, national professional organizations, or a scientific laboratory.

(3) An instructional design institution that can integrate student and teacher print resources, related computer resources, interactive multimedia and programming series into a coordinated whole.

(4) A marketing entity capable of distributing all aspects of the products developed under this section.

(g) APPLICATIONS.—

(1) APPLICATION REQUIRED.—Each eligible educational telecommunications partnership which desires to receive a grant or enter into a contract or cooperative agreement under this section shall submit an application to the Assistant Secretary, at such time, in such manner, and containing or accompanied by such information as the Assistant Secretary may reasonably require.

(2) CONTENTS OF THE APPLICATION.—Each application submitted under paragraph (1) shall—

(A) describe the programming and such programming's relevance to the core curricula outlined in the National Education Goals;

(B) describe the professional capabilities for which assistance is sought, including—

(i) the research, design, piloting, production, field testing, and distribution of the products developed under this section; and

(ii) the technical facilities available for developing the programming; and

(C) describe the piloting, teacher training and testing of the programming, print, computer, television, radio and interactive media products.

(h) PROGRAMS RELATED OPERATING FUNDS FOR INSTRUCTIONAL TEACHER TRAINING (PROFIT).—The Assistant Secretary shall allow the eligible educational telecommunications partnership to receive a financial benefit from the distribution of programming assisted under this section. Such benefit shall be used by the eligible educational telecommunications partnership to support more development of curriculum specific programming and to provide greater access to a wider audience of educational programming.

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SEC. 405. STAR SCHOOLS PROGRAM.

The Star Schools Program Assistance Act (20 U.S.C. 4081 et seq.) is amended to read as follows:

"SEC. 901. PURPOSE.

"It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and disabled, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

"(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

"(2) develop and acquire educational and instructional programming; and

"(3) obtain technical assistance for the use of such facilities and instructional programming.

"SEC. 902. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Assistant Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships to pay the Federal share of the cost of—

"(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

"(2) the development and acquisition of live, interactive instructional programming;

"(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

"(4) the establishment of teleconferencing facilities and resources for broadcasting interactive training to teachers;

"(5) obtaining technical assistance; and

"(6) the coordination of the design and connectivity of telecommunications networks to reach greater numbers of schools.

"(b) DURATION.—

"(1) IN GENERAL.—The Assistant Secretary shall award grants pursuant to subsection (a) for a period of 5 years.

"(2) RENEWAL.—Grants awarded pursuant to subsection (a) may be renewed for 1 additional 5-year period.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1994 and such sums as may be necessary for each succeeding fiscal year, to carry out this title.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

"(d) LIMITATIONS.—

"(1) AMOUNT.—A grant made to an eligible telecommunications partnership under this title shall not exceed $4,000,000 in any 1 fiscal year.

"(2) RESERVATIONS.—

"(A) FACILITIES AND EQUIPMENT.—Not less than 25 percent of the funds available to the Assistant Secretary in any fiscal year under this title shall be used for telecommunications facilities and equipment.

"(B) CERTAIN LOCAL EDUCATIONAL AGENCIES.—Not less that 25 percent of the funds available to the Assistant Secretary in any fiscal year under this title shall be used for the cost of facilities, equipment, teacher training or retaining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share for any fiscal year shall be not more than 75 percent.

"(2) WAIVER.—The Assistant Secretary may reduce or waive the requirements of the non-Federal share required under subparagraph (A) for good cause, as determined by the Assistant Secretary.

"(f) COORDINATION.—The Department of Education, the National Science Foundation, the Department of Agriculture, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this title with the activities of such department or agency relating to a telecommunications network for educational purposes.

"(g) CLOSED CAPTIONING.—Each entity receiving funds under this title are encouraged to provide closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"SEC. 903. ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS.

"(a) IN GENERAL.—In order to be eligible for a grant under this title, an eligible telecommunications partnership shall consist of—

"(1) a public agency or corporation established for the purposes of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interest of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; or

"(2) a partnership that will provide a telecommunications network and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in subparagraph (A) or (B):

"(A) a local educational agency serving a significant number of elementary and secondary schools that are eligible for assistance under chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965 or elementary and secondary schools operated for Indian children by the Department of Interior under section 1005(d) of such Act;

"(B) a State educational agency;

"(C) an institution of higher education or a State higher education agency;

"(D) a teacher training center or academy which—

"(i) provides teacher preservice and inservice training; and

"(ii) receives Federal financial assistance or has been approved by a State agency; or

"(E)(i) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone or computers; or

"(ii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership shall be organized on a statewide or multistate basis.

"SEC. 904. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—

"(1) IN GENERAL.—Each eligible telecommunications partnership which desires to receive a grant under section 902 shall submit an application to the Assistant Secretary, at such time, in such manner, and containing or accompanied by such informa-

tion as the Assistant Secretary may reasonably require.

"(2) SPECIAL RULE.—The Assistant Secretary shall permit applicants for assistance under this Act and applicants for assistance under any other Federal program providing educational technology in the classroom to submit a single application for assistance.

"(b) CONTENTS OF THE APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

"(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals who are experts in the applicable subject matter and grade level;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as other subjects to be offered;

"(4) describe the training policies for teachers and other school personnel to be implemented to ensure the effective use of telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools of local educational agencies which have a high percentage of children eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

"(7) describe the manner in which traditionally underserved students, such as students who are disadvantaged, limited-English proficient, disabled, or illiterate will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this title;

"(8) provide assurances that the applicant will use the funds provided under this title to supplement and not supplant funds otherwise available for the purposes of this title;

"(9) if the applicant is submitting an application for assistance under title II of the Technology for Education Act of 1993, describe how funds received under this title will be coordinated with funds received for educational technology in the classroom under title II of such Act;

"(10) describe the activities or services for which assistance is sought, including activities and services such as—

"(A) providing facilities, equipment, training, services, and technical assistance described in paragraphs (1), (2), (4) and (7);

"(B) making programs accessible to individuals with disabilities through mechanisms such as closed captioning and descriptive video services;

"(C) linking networks together, for example, around an issue of national importance, such as national elections;

"(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

"(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

"(F) incorporating community resources, such as libraries and museums, into instructional programs;

"(G) providing teacher training to early childhood development and Head Start teachers and staff;

"(H) providing teacher training to vocational education teachers and staff;

"(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed;

"(J) providing programs for adults at times other than the regular school day in order to maximize the use of telecommunications facilities and equipment; and

"(K) providing parent education programs during and after the regular school day which reinforce the student's course of study and actively involve parents in the learning process; and

"(11) include such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATION; PRIORITY.—The Assistant Secretary, in approving applications under this title, shall give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign languages resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including in the case of elementary and secondary schools, those elementary and secondary schools having a significant number of students eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities, including the capability of training, retraining, and service upgrading of teaching skills and the capability to provide professional development leading to comprehensive effective instructional strategies, outcomes-based curriculum and parenting practices;

"(6) the eligible telecommunications partnership will—

"(A) provide a comprehensive range of courses for educators with different skill levels to teach instructional strategies for students with different skill levels;

"(B) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum; and

"(C) include instruction for students, teachers, and parents;

"(7) the eligible telecommunications partnership will serve a multistate area;

"(8) a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) will participate in the partnership and will donate equipment or in kind services for telecommunications linkages; and

"(9) the eligible telecommunications partnership will, in providing services with assistance under this title, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Assistant Secretary shall assure an equitable geographic distribution of grants under this title.

"SEC. 905. DISSEMINATION OF COURSES AND RESOURCES UNDER THE STAR SCHOOLS PROGRAM.

"(a) REPORT.—Each eligible telecommunications partnership awarded a grant under this title shall report to the Assistant Secretary a listing and description of available courses of instruction and resources to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Assistant Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and resources to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities as reported to the Assistant Secretary under subsection (a).

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Assistant Secretary shall distribute the list required by subsection (b) to all State educational agencies.

"SEC. 906. ADMINISTRATIVE PROVISIONS.

"(a) CONTINUING ELIGIBILITY.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under this title in any fiscal year after the first fiscal year in which an eligible telecommunications partnership receives a grant under this title, such partner-

ship shall demonstrate in the application submitted pursuant to section 904 that such partnership will—

"(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this title in the previous fiscal year; and

"(B) use all such grant funds to provide expanded services by—

"(i) increasing the number of students, schools or school districts served by the courses of instruction assisted under this title in the previous fiscal year;

"(ii) providing new courses of instruction; and

"(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are disabled, are illiterate, or lack high school diplomas or their equivalent.

"(2) SPECIAL RULES.—Grant funds received pursuant to the application of paragraph (1) shall be used to supplement and not supplant services provided by the recipient under this title in the previous fiscal year.

"(b) EVALUATION.—

"(1) IN GENERAL.—From amounts appropriated pursuant to the authority of subsection (b), the Secretary shall reserve not more than $500,000 or 5 percent of such appropriations, whichever is less, to conduct an independent evaluation by grant, contract, or cooperative agreement, of the program assisted under this title.

"(2) SUBMISSION.—The evaluation required under paragraph (1) shall be submitted to the Congress and the Assistant Secretary not later than June 1, 1995.

"(3) CONTENTS.—The evaluation described in paragraph (1) shall include—

"(A) a review of the effectiveness of eligible telecommunications partnerships and programs assisted under this title after Federal funding under this title ceases;

"(B) an analysis of the effectiveness of non-Federal funds provided under this title, including funds leveraged under this title and the permanency of such funding;

"(C) an analysis of how grant recipients under this title spend funds appropriated to carry out this title;

"(D) a review of the subject matter and success of distance learning through programs assisted under this title;

"(E) a comprehensive review of inservice teacher training programs assisted under this title, including the number of teachers trained, time spent in training programs, and a comparison of the effectiveness of such training and conventional teacher training programs;

"(F) an analysis of programs assisted under this title that focus on teacher certification and other requirements and the resulting effect on the delivery of instructional programming;

"(G) the effects of distance learning on curriculum and staffing patterns at participating schools;

"(H) an analysis of the socioeconomic characteristics of students participating in programs assisted under this title, including a review of the differences and effectiveness of programming and services provided to economically disadvantaged and minority students;

"(I) an analysis of the socioeconomic and geographic characteristics of schools participating in programs assisted under this title, including a review of the variety of programming provided to different schools; and

"(J) the impact of dissemination grants under section 907(a) on the use of technology-enhanced programs in local educational agencies.

"(c) FEDERAL ACTIVITIES.—The Assistant Secretary may assist grant recipients under this title in acquiring satellite time, where appropriate, as economically as possible.

"SEC. 907. OTHER ASSISTANCE.

"(a) DISSEMINATION GRANTS.—

"(1) IN GENERAL.—The Assistant Secretary shall make grants under this subsection to eligible telecommunications partnerships assisted under this title and to eligible entities that enter into an agreement with the Assistant Secretary to provide dissemination and technical assistance to State and local educational agencies not served under this title.

"(2) DEFINITION.—For the purposes of this subsection, the term 'eligible entity' means an organization or institution of higher education that has demonstrated expertise in educational applications of technology and provides comprehensive technical assistance to educators and policymakers at the local level.

"(3) RESERVATION.—The Assistant Secretary shall reserve not less than 5 percent and not more than 10 percent of the amount appropriated pursuant to the authority of subsection (c) in each fiscal year to award grants under this subsection.

"(4) APPLICATIONS.—

"(A) IN GENERAL.—Each eligible telecommunications partnership and eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information, as the Assistant Secretary may reasonably require.

"(B) CONTENTS.—Each applicant described in paragraph (2) shall contain assurances that the eligible telecommunications partnership or eligible entity shall provide technical assistance to State and local educational agencies in order to enable such agencies to plan and implement technology-enhanced systems, including—

"(i) information regarding successful distance learning resources for States, local educational agencies, and schools;

"(ii) assistance in connecting users of distance learning, regional educational services centers, colleges and universities, the private sector, and other relevant entities;

"(iii) assistance and advice in the design and implementation of systems, including needs assessment and technology design; and

"(iv) support for the identification of possible connections, and cost-sharing arrangements for users of such systems.

"(b) SPECIAL STATEWIDE NETWORK.—

"(1) IN GENERAL.—The Assistant Secretary may provide assistance to a statewide telecommunications network under this subsection if such network—

"(A) provides 2-way interactive video and audio communications;

"(B) links together public colleges and universities and secondary schools throughout the State; and

"(C) meets any other requirements determined appropriate by the Secretary.

"(2) STATE CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

"(c) SPECIAL LOCAL NETWORK.—

"(1) IN GENERAL.—The Assistant Secretary may provide assistance to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

"(2) PROGRAM REQUIREMENTS.—A high technology demonstration program assisted under paragraph (1) shall—

"(A) include 2-way full motion interactive video, audio and text communications;

"(B) link together elementary and secondary schools, colleges, and universities;

"(C) provide parent participation and family programs;

"(D) include a staff development program; and

"(E) have a significant contribution and participation from business and industry.

"(3) SPECIAL RULE.—Each high technology demonstration program assisted under paragraph (1) shall be of sufficient size and scope to have an effect on meeting the National Education Goals.

"(4) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

"SEC. 908. DEFINITIONS.

"As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, or a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, training courses, and resources used in such instruction and training, which have been prepared in audio and visual form on tape, disc, film, live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term by section 397 of the Communications Act of 1934;

"(6) the term 'Assistant Secretary' means the Assistant Secretary for Educational Technology;

"(7) the term 'State educational agency' has the same meaning given that term under section 1471(23) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.".

TITLE V—EDUCATIONAL TECHNOLOGY RESEARCH, DEVELOPMENT AND ASSESSMENT

SEC. 501. PURPOSES.

It is the purpose of this title—

(1) to provide direction and support for the conduct of developmental research on advanced educational technologies;

(2) to support the design and development of educational access to high performance communications and computing services;

(3) to assess the effectiveness of technology in education programs; and

(4) to make an annual status report available to the public regarding the state-of-the-art uses of technology in United States education which private businesses and governments can rely upon for decisionmaking about the need for, and provision of, appro-

priate technologies for education in the United States.

SEC. 502. APPLICATION OF ADVANCED TECHNOLOGIES TO EDUCATION.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to provide support for the design and development of long-term comprehensive educational applications of advanced high performance computer and communication technologies and video technologies in support of the core subjects of the National Education Goals. Such advanced technologies include systems identified as interactive multimedia, super computing, virtual reality, advanced digital television, telecomputing, and the networks associated with such systems, including video dial tone access.

(b) GENERAL AUTHORITY.—The Assistant Secretary, in cooperation with other Federal departments and agencies (including the Advanced Research Projects Agency (ARPA) of the Department of Defense, the Advanced Technology Program of the Department of Commerce, the National Science Foundation, all laboratories supported by the Department of Energy, the National Aeronautics and Space Administration, and the Department of Defense) is authorized to support research on advanced learning technologies.

(c) PRIORITIES.—In awarding assistance under this section, the Assistant Secretary shall give the highest priority to research projects which are intended to develop educational applications using advanced technologies which have been used effectively by the Federal Government, or business and industry.

(d) ELIGIBLE APPLICANTS.—Any single developer or partnership that can demonstrate both the technological expertise and educational content and instructional design expertise is eligible to apply for assistance under subsection (b).

(e) APPLICATION REQUIREMENTS.—Each eligible applicant desiring assistance under this section shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information, as the Assistant Secretary may reasonably require. Each such application shall—

(1) define clearly the scope and content of the subject matter of the research and the relevance of the advanced technology to such content;

(2) describe the potential market for both the hardware and software developed under this section;

(3) assess and test the applications of the advanced technology in a way that will validate the technology and content usage by the proposed students;

(4) develop products that are usable by all students, including disabled, limited-English speaking, gifted and talented, and disadvantaged students; and

(5) develop a marketing plan for the transfer of prototype development into mass distribution or marketing that may be used in homes, schools, or workplaces.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year, to carry out this section.

SEC. 503. HIGH PERFORMANCE EDUCATIONAL COMPUTING AND TELECOMMUNICATIONS NETWORKS.

(a) FINDINGS; STATEMENT OF PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) throughout the United States various public and private sector groups are developing high performance computing and telecommunications networks;

(B) by the year 2000, such efforts should result in public access to a variety of information resources;

(C) there needs to be more direct coordination among such efforts and a more explicit consideration of the needs of education in the designs of such efforts; and

(D) support and resources are required to permit schools and libraries to take advantage of the explosive growth in communication capabilities and information access that technology provides.

(2) STATEMENT OF PURPOSE.—It is the purpose of this section to ensure that such high performance computing and telecommunications networks (often identified as "information highways") are developed with due consideration to the needs of elementary and secondary education and that such networks have explicit provisions which facilitate educational uses in order to ensure that the classrooms and libraries in the Nation's elementary and secondary schools have adequate access to the emerging "information highways".

(b) AUTHORITY.—The Assistant Secretary is authorized to—

(1) identify educational high performance computing and telecommunications network requirements;

(2) develop specifications for the implementation of such requirements within any national telecommunications network;

(3) establish prototype operations on existing networks to validate and further develop the educational specifications which will facilitate the use of such networks by kindergarten through twelfth grade students, teachers, administrators, and parents;

(4) represent the needs and interests of elementary and secondary schools in the Federal planning and development of a national information infrastructure; and

(5) identify policy issues, such as communication rate structures and intellectual property rights, that impact upon the ability of the public schools to make effective use of the emerging information highways and make recommendations to the Secretary and the Congress.

(c) TYPES OF GRANTS.—The Assistant Secretary shall award the following types of grants:

(1) REQUIREMENTS GRANTS.—The Assistant Secretary shall solicit proposals for and award grants to 1 or more entities for the identification of educational high performance computing and telecommunications network requirements. The solicitation shall request proposals which—

(A) identify and describe existing and planned educational high performance computing and telecommunications network efforts;

(B) identify and describe current uses of such networks in kindergarten through twelfth grade education throughout the United States;

(C) identify potential uses of such networks in kindergarten through twelfth grade education by schools throughout the United States;

(D) assess impediments to the development of such networks in kindergarten through twelfth grade education (such as technological impediments, availability of technology-enhanced curriculum, instruction, and administrative support resources and services in local schools; and parent, student, teacher and administrator attitudes toward technology-enhanced education);

(E) assess the anticipated costs and benefits to be derived from such network access in kindergarten through twelfth grade education; and

(F) recommend priorities for development of educational access to such networks based on the anticipated cost benefit analysis.

(2) SPECIFICATIONS GRANTS.—The Assistant Secretary shall solicit proposals for and award grants to 1 or more entities for the design and development of educational specifications which may be used to ensure educational access to any national educational high performance computing and telecommunications network. The solicitation shall request proposals which—

(A) incorporate—

(i) the findings of the grant recipients under paragraph (1); and

(ii) the priorities recommended for such networks by the Assistant Secretary with the advice of the National Commission on Technology in Education;

(B) provide for the development of several distinct design alternatives, each with internal design options based on uses of alternative technologies and costs;

(C) provide for the development of specifications for selected design alternatives or of specifications for a composite design;

(D) address technological issues, including—

(i) linkage of schools and communities with each other, with central resource centers, and with Federal and State agencies over existing or planned telecommunications networks, such as INTERNET, the National Research Education Network, and Telstar 401;

(ii) uses of alternative connectivity modes, such as fiber optics, satellites, and land-based broadcasting;

(iii) integrated uses of two-way interactive voice, video, and data communications;

(iv) uses of interactive multimedia;

(v) system capacity, such as maximum telecommunications traffic in a variety of use modes;

(vi) availability of needed technologies;

(vii) availability of support services; and

(viii) assessment of the impact of proposed educational access specifications on existing or planned telecommunications network; and

(E) provide comprehensive specifications which will ensure educational access to any national educational high performance computing and telecommunications network as the primary deliverable product of the specifications grants described in paragraph (1).

(3) PROTOTYPE DEVELOPMENT GRANTS.—The Assistant Secretary shall solicit proposals for and award grants to 1 or more entities for prototype operations on existing networks in order to validate and further develop the educational specifications which will facilitate use of existing or planned educational high performance communicating and telecommunications networks by kindergarten through twelfth grade students, teachers, administrators, and parents. The solicitation shall request proposals which—

(A) incorporate the design limits of the comprehensive educational high performance computing and telecommunications network specifications developed by grant recipients under paragraph (2);

(B) support prototype operations for at least 1 year in a minimum of 5 test sites which are selected to represent a variety of economic, social, urban and rural settings;

(C) provide for inservice training and technical assistance during the period of prototype operations;

(D) provide provisions for the identification and correction of operational problems during the period of prototype operations (including design flaws);

(E) include a comprehensive evaluation of all aspects of the prototype, including—

(i) design flaws;

(ii) training requirements, including resources and strategies for initial and ongoing training;

(iii) technical support requirements;

(iv) financing constraints;

(v) availability and utility of information resources and services accessed during the prototype operations period;

(vi) factors which enhanced or impeded prototype operations; and

(vii) an overall assessment of the impact of such technology on the educational process; and

(F) provide recommended revisions of the Assistant Secretary's educational high performance computing and telecommunications network specifications based on findings of the comprehensive evaluation of prototype operations.

(d) TIMELINE.—The Assistant Secretary shall award grants under this section in accordance with the following:

(1) REQUIREMENT GRANTS.—The Assistant Secretary shall award requirement grants under subsection (c)(1) by January 1, 1995.

(2) DEVELOPMENT OF DESIGN SPECIFICATIONS.—The Assistant Secretary shall award grants under subsection (c)(2) by January 1, 1996.

(3) PROTOTYPE OPERATIONS.—The Assistant Secretary shall award grants under subsection (c)(3) by July 1, 1997.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,500,000 for fiscal year 1994, $2,500,000 for fiscal year 1995, and $10,000,000 for fiscal year 1996, to carry out this section.

SEC. 504. ASSESSMENT OF TECHNOLOGY IN EDUCATION.

(a) PURPOSES.—It is the purpose of this section—

(1) to make an annual status report available to the Congress and the public regarding the state-of-the-art uses of technology in State and local educational programs throughout the United States; and

(2) to support research regarding—

(A) the effectiveness of technology-enhanced curriculum instruction;

(B) administrative support resources and services in improving education in the United States; and

(C) school library media center technological support.

(b) AUTHORITY.—The Assistant Secretary, through the Office, shall—

(1) conduct an annual assessment of the uses of technology in State and local educational programs; and

(2) award grants to support research on the effectiveness of technology-enhanced education programs.

(c) ANNUAL ASSESSMENT.—The Assistant Secretary shall conduct the annual assessment described in subsection (b)(1) by obtaining input from a variety of sources, including State and local educational agencies, regional technology centers, university preservice and inservice technology training providers, national survey bureaus, and other departments and agencies of the Federal Government.

(1) TIMING OF THE ASSESSMENTS.—Each assessment shall be conducted during the normal school year at such a time that the data collection will coincide with other data collections and facilitate data interpretation in reference to other routinely collected educational performance data, such as student enrollment and teacher preparation statistics.

(2) INTERAGENCY COOPERATION.—The head of each Federal department or agency that supports an education program shall cooperate with the Assistant Secretary's efforts to assess and report on the utilization of technology-enhanced curriculum, instruction, and administrative support resources and services in federally supported education programs.

(3) USE OF GOVERNMENT RESOURCES; CONTRACTED SERVICES.—The Assistant Secretary shall conduct the assessments using the resources of the Office or the resources of any other Federal department or agency made available to the Assistant Secretary, and by contracting for services from the public, private, or nonprofit sectors.

(4) SUBMISSION.—The Assistant Secretary's annual assessment shall be submitted to the Congress in the fall of each year.

(d) EFFECTIVENESS RESEARCH.—The Assistant Secretary is authorized to provide grants to public or private, nonprofit organizations or institutions for the conduct and dissemination of research on the effectiveness of new technologies for the improvement of education in the United States. In awarding such grants, the Assistant Secretary shall give priority to research projects which focus on—

(1) teaching and learning in the kindergarten through twelfth grade environment;

(2) technology-enhanced curriculum, instruction, and administrative support resources and services developed in whole or in part with Federal funding; or

(3) operational needs of elementary or secondary schools involved in implementing technology-enhanced curriculum, instruction, and administrative support resources and services to achieve the National Education Goals.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1994, and such sums as may be necessary in each succeeding fiscal year, to carry out this section.

TITLE VI—MISCELLANEOUS

SEC. 601. STUDY OF SYSTEMIC FUNDING ALTERNATIVES.

(a) IN GENERAL.—The Assistant Secretary shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing systematic funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and administrative support resources and services.

(b) REPORT.—The report described in subsection (a) shall be presented to the Congress not later than August 1, 1995.

SEC. 602. PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN.—To the extent consistent with the number of children who are enrolled in private nonprofit elementary or secondary schools served by an entity receiving assistance under this Act, such entity shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this Act.

(b) WAIVER.—If by reason of any provision of State law an entity receiving assistance under this Act is prohibited from providing for the participation of children from private nonprofit schools as required by subsection (a), or if the Secretary determines that such entity has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children.

EXECUTIVE SUMMARY—TECHNOLOGY FOR EDUCATION ACT OF 1993

The Bill in five titled sections includes the following:

1. Leadership for Technology in Education.—Establishes an Assistant Secretary of Technology in charge of an Office of Educational Technology in the U.S. Department of Education to provide national leadership with the assistance of a 15-member, Presidential Commission on Educational Technology.

II. School Technology Support.—Provides Federal funding support State technology in education planning and for the acquisition of technologies by the "poorest" school districts in America. Enables all LEAs to obtain guaranteed, long-term, low-interest loans to acquire needed technologies.

III. Information Dissemination, Technology Training, and Technical Assistance.—Creates a national educational information dissemination system consisting of the coordinated resources and activities of existing federally supported networks such as the INTERNET, ERIC and NDN. Establishes regional technical assistance and teacher training consortia throughout the United States.

IV. Educational Technology Product Development, Production and Distribution.—Supports development of high quality curriculum-based software and other supporting materials by consortia of private industry and businesses in partnership with educational institutions. Supports development of instructional broadcasting and video instructional programming and extends authorization of the Star Schools Program.

V. Educational Technology Research, Development and Assessment.—Funds research on advanced technologies for use in education; supports development of high performance educational computing and telecommunications networks; creates assessments of the effectiveness of technology in education; and requires an annual report on the state-of-the art with respect to school uses of technology.

SECTION-BY-SECTION SUMMARY

Section 1. Contents include five sections as follows:

I. Leadership for Technology in Education.

II. School Technology Support.

III. Information Dissemination, Technology Training, and Technical Assistance.

IV. Educational Technology Product Development, Production and Distribution.

V. Educational Technology Research, Development and Assessment.

Section 2. Findings. Bill cites potential uses of technology as a tool in the learning process to improve all aspects of education while creating a technologically literate citizenry and internationally competitive work force.

Findings include that—

Technology-enhanced curriculum, instruction, and administrative support resources and services can be used for the "systemic improvement" of education in America;

The acquisition and use of technology in education throughout the United States has been inhibited by—the absence of Federal leadership; the inability of many State and local education agencies to invest in and support the needed technologies; and the limited availability of appropriate technology-enhanced curriculum, instruction, and administrative support resources and services in the education marketplace; and

The acquisition and use of technology-enhanced curriculum, instruction, and administrative support resources and services by elementary and secondary school in the United States must be supported by a comprehensive educational technology infrastructure.

Section 3. The purpose of the Act is to develop and maintain a technologically literate citizenry and internationally competitive work force by encouraging the systemic integration of technology and telecommunications in all aspects of public and private elementary and secondary education in America.

Title I. Leadership for Technology in Education

Section 101. An Office of Educational Technology is established within the U.S. Department of Education managed by a new Assistant Secretary for Educational Technology.

Authorizes $3 million to establish the Office in FY '94 and such sums as may be needed through FY '98 to fund the activities of the Office which include:

Provide national leadership for policy development for the integration of technology into schools;

Coordinate technology-related education activities, within the Department of Education and, to the extent possible, analogous programs in the Federal Government outside the Department;

Advise on the design, development and use of technology-enhanced networks for information dissemination by the Department of Education (e.g., National Diffusion Network, Office of Training Technology Transfer, and ERIC) and analogous networks in the Federal Government outside the Department;

Manage a new Division of Elementary and Secondary School Library Media Services; and

Administer a new comprehensive school technology support system of grants, loans, and other funding to support:

State and local education technology planning

Development, acquisition and maintenance of technologically advanced information management resources for school libraries and media centers

Staff development programs which emphasize integration of technology into the elementary and secondary curriculum along with technical assistance for schools

Development, acquisition, and maintenance of technology-enhanced curriculum, instruction, and administrative support resources and services.

Promote collaboration among government, business, and educational organizations to expand and improve the use of technology in education.

Section 102. National Commission on Technology in Education. Establishes a 15-member advisory board with members appointed by the President and confirmed by the Senate. [$2.5 million is authorized in FY94 such sums as may be needed in FY95–FY98.]

Responsibilities of the Commission to the President and Congress include:

Identification of national educational technology requirements for schools;

Recommendations with respect to Department of Education technology programs;

Recommendations with respect to coordination of Federal technology programs outside the Department;

Exploring the feasibility of developing guidelines or standards to help teachers and their students concentrate on using modern technology in the learning process instead of trying to figure out how to make the computers and software work;

Encouragement of industry, technology and educational consortia to support the integration of technology in schools;

Production of a bi-annual report.

Title II. School Technology Support

Section 202. State Technology Planning Grants. Authorizes $10 million for planning grants to States to be allocated based on the Chapter 1 formula with no State receiving less than $100,000. Funds will be used by States to develop state-wide plans for—

Integration of technology into all of the classrooms;

Staff development; and

Technical support.

Assessment.

Section 203. Elementary and Secondary School Library and Media Services. Authorizes $45 million in FY '94 to be allocated as follows—

$15 million for library media center resource development;

$15 million for innovative library media specialist and teacher partnership projects;

$15 million for linking classroom and library media center-based technologies to access information from computerized data banks.

Section 204. School Technology Resource Grants and Loans

Grants. Authorizes $100 million to support local education agencies and schools having the highest percentages of children in poverty and which show the greatest need for technology in the classroom. These grants are to provide equity in student access to learning technologies throughout the United States.

Loans. Provides guaranteed low-interest loans for LEAs to acquire education technologies under the "Connie Lee" program which is administered by the College Construction Loan Insurance Association.

Section 205. Systemic Funding Alternative. The Secretary of Education is required to study and recommend alternative funding models to support the technology for education requirements of elementary and secondary schools throughout the United States and to present a report on systemic funding alternatives to the Congress by August 1, 1995.

Title III. Information Dissemination, Technology Training and Technical Assistance

Section 301. Purposes of this title are to:

Disseminate information on effective technology-enhanced curriculum, instruction, and administrative support resources and services; and to

Create regional technical assistance and staff development consortia to ensure that technology resources made available through this Act are used effectively by educators.

Section 302. Electronic Dissemination Network.

Authorizes establishment of a method of accessing information to support the integration of technology in education available in Federal government data bases.

Networks are to make use of existing electronic networks and networks built for other purposes (e.g., INTERNET, NREN, ERIC). [$5 million is authorized for this project in FY '94.]

Section 303. Regional Implementation and Assistance. Provides for competitive grants to establish and maintain a technical assistance and teacher training consortia in each of the 10 regions currently supported by the Department of Education pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act. [$50 million is authorized for technical assistance and teacher training in FY '94 with the amount of available grants in each region being in the same proportion as students in the region.]

Eligible applicants are consortia of State education agencies, or a non-profit organization, or a combination thereof.

Technical assistance provided to schools, LEAs, and SEAs under this section includes:

Educational technology information dissemination including information on—available computer hardware and software, suitability of technologies to particular school needs; and creative applications of technology in the classroom;

Assistance in identifying technology-enhanced materials to support State curriculum standards and needs of individual schools and students;

Facilitate coordination and use of electronic information networks; and

Assistance in the development of a coordinated system of distance education within the region.

Staff Development. In collaboration with State education agencies, technology in education training is provided through site-based intensive summer and school year workshops that utilize teacher-teaching-teachers model or through existing and emerging distance education resources to integrate the use of technology into the curriculum. Provisions are made for the—delivery of on-site training; development of training resources; linkage of technical assistance providers and users; and follow-up and evaluation of training activities.

Title IV. Educational Technology Product Development, Production and Distribution

Section 401. This title supports development, production, and distribution of technology-enhanced curriculum, instruction, and administrative support resources and services.

Section 402. Priority in Federally Supported Education Programs. Requires the Secretary of Education to give priority in competitive grant programs to those applicants whose proposals utilize technology.

Section 403. "Classrooms for the Future". Authorizes $45 million in FY '94 for the competitive development of high quality curriculum-based software and other supporting materials by consortia of businesses in partnership with educational institutions.

Section 404. Instructional Broadcasting and Video Instructional Programming. Authorizes $15 million in competitive grants to fund research, production, and distribution of television programming which supports the National Education Goals and is targeted to the school-age audience [Applicants must provide at least 25% of the projects funding and the government may not provide more than 75%.]

Section 405. Star Schools Program. Authorizes $35 million in FY '94 and such sums as may be necessary for FY '95 through FY '98 for the purposes of extending the Star Schools program for an additional five years.

Title V. Educational Technology Research, Development, and Assessment

Section 501. The purposes of this title are to—

Provide direction and support for developmental research on advanced educational technologies;

Support the design and development of educational access to high performance communications and computing services;

Assess the effectiveness of technology in education programs; and to

Make an annual status report available to the public regarding the state-of-the-art

with respect to uses of technology in schools throughout the United States upon which businesses and governments can rely for decision-making about the need for, and provision of, appropriate technologies for education.

Section 502. Research on Advanced Technologies for Education. Authorizes $20 million for the design and development of long-term comprehensive educational applications of advanced high performance computer and communications technologies in support of the National Education Goals. Priority in awarding assistance under this section is given to those advanced technologies which have been used effectively by the Federal Government, or in business and industry.

Section 503. High Performance Educational Computing and Telecommunications Networks. Authorizes—

"Requirements Grants" of $2.5 million in FY '94 for the identification and documentation of high performance educational computing and telecommunications network requirements;

"Specification Grants" of $2.5 million in FY '95 for the specification of technologies needed to support identified high performance educational computing and telecommunications network requirements identified; and

"Prototype Development Grants" of $10 million in FY '96 for the implementation of high performance educational computing and telecommunications networks for use by elementary and secondary students, teachers, administrators, and parents.

Section 504. Assessment of Technology in Education. Authorizes $5 million to support—

Assessments on the effectiveness of technology in education programs; and

An annual assessment of the state-of-the-art with respect to uses of technology in schools throughout the United States upon which businesses and governments can rely for decision-making about the need for and provision of, appropriate technologies for education.

SUMMARY OF FUND AUTHORIZATIONS

Title, subject to section-topic	Fiscal year 1994 funding (in millions)	Precent of total
I. Leadership for technology in Education	[5.5]	1.7
101—Office/Activities	$3.0	
102—Commission/Activities	$2.5	
Ii. School Technology Support	[155.0]	48.0
202—State Planning	$10.0	
203—El/Sec Lib/Media	$45.0	
204—School Resource Grants	$100.0	
III. Information dissemination, technology training, and technical assistance	[55.0]	17.0
302—electronic dissemination network	$5.0	
303—Regional technical assistance and training consortia	$50.0	
IV. Educational technology product development, production and distribution	[80.0]	24.8
403—Product development	$45.0	
404—Instructional broadcasting	$15.0	
405—Star schools	$35.0	
V. Educational technology research, development and assessment	[27.5]	8.5
502—Research on advanced technologies	$20.0	
503—High performance computing & telecommunications networks	$2.5	
504—Assessment	$5.0	
Total funding requirements	$323	100•

• Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from New Mexico [Mr. BINGAMAN] in introducing the Technology in Education Act of 1993.

The primary objectives of this bill are:

The creation of an Office of Educational Technology in the Department of Education, which would support the use of technology as an educational tool in the classroom and coordinate current and future efforts among Federal agencies to utilize educational technologies;

Establishment of a program to help States develop strategies for integrating technology into classrooms, particularly those with high percentages of disadvantaged students who currently have little or no access to technology-based instructional materials;

A program to emphasize teacher training as part of an overall strategy to make technology effective in the classroom;

Authorization of Federal funding for the development of high-quality curriculum-based software and other supporting materials;

Authorization of a new grant program for States based on their chapter 1 allocation to assist the most disadvantaged schools in purchasing equipment and integrating technology into their curriculum so their students can be exposed to these educational resources; and

Expansion of the national technology infrastructure to link our Nation's elementary and secondary schools for the sharing of ideas among teachers and students and to provide access to the Nation's library resource materials.

This act will provide a national educational technology blueprint to bring our elementary and secondary schools into the 21st century. To keep pace in today's increasingly competitive world, our students must have the advantages that modern technology affords them.

Over the last decade, student performance in the classroom has slipped behind other nations while schools are expected to do more with less and teachers are expected to teach without adequate resources.

Fewer than one out of every five students in grades 4, 8, and 12 show competency in math. About 40 percent of inner-city teachers report that their most serious classroom problem is a lack of basic reading skills among their students. In 1991, 16 percent of all students dropped out of high school. Not liking school and not being able to keep up with schoolwork were the primary reasons given for leaving school.

One way to help is to introduce technology into the classroom. Studies have shown that when educational technologies are integrated into the school curriculum, they have improved the ability of teachers to teach and students to learn.

But the reality is that not many schools—and few students—have the opportunity to enhance their ability to learn with technology because they cannot afford the equipment, and if they can, the teachers aren't trained properly to use it.

The gap between the "haves" and the "have-nots" in the area of technology is one of the most pronounced inequities in our education system. And it is growing every year. The availability of technology for all students is no longer a matter of educational enrichment; it is a matter of economic survival.

The core of education reform should be the principle that all Americans have an opportunity to participate in rich, intellectually challenging courses. The use of modern educational equipment, such as computers, video discs, VCR's, and state-of-the-art software, will not only increase achievement levels, but make learning more fun for students.

The fact is that students who have been exposed to technology in the classroom work harder, score higher than their peers on standardized tests, and have higher attendance rates.

Consider, for example, the Hayes Cooper Center for Math, Science and Technology in the heart of the Mississippi Delta, which brings together 190 students from different social, ethnic, and economic backgrounds in one of the Nation's poorest school districts.

The center provides students with not only a solid science and math background but in all core subjects. Each child has an individualized program tailored to meet his or her learning style or academic needs. An emphasis is placed on a hands-on learning approach, using technology as a learning tool. All students, even kindergartners, are taught computer use, and computer technology is integrated into every academic subject.

Computer software is tailored by the center's teachers to meet State curriculum standards and the national education goals. Parents are given a monthly computer generated report to keep track of their children's progress.

Hayes Cooper contributes a great deal of their success to the 2 weeks of intensive training teachers receive during the summer enabling them to use technology creatively in the classroom. Regular training sessions are also held during the school year. Teachers now have more time to spend with small groups of students, while other students work in teams at one of the classroom's computer terminals. Classrooms are linked by way of computer networks so that teachers can share ideas and participate in team teaching activities with other teachers.

The results have been very encouraging. After 1 year, students reported significant progress over last year's standardized tests scores. Second grade students averaged in the 79th percentile, while the districtwide average was in the 51st percentile. The gap between minority and white students has closed substantially from 25 to around 5 percent. Today, Hayes Center boasts a 99-percent attendance rate. And its 280-member parent association contributes significantly to the school's success.

"This school is harder, but it is a lot more fun," explains one Hayes Cooper sixth grade student.

Through the use of technology, Hayes Cooper has adopted a more rigorous course of study which has produced measurable gains and self-confidence for its students. Teachers at the school are invigorated by the positive learning environment, and the children come to school eager to learn.

Another example of how technology has been used to restructure schools and improve learning is the HOTS [higher order thinking skills] program. HOTS replaces the traditional remedial classes of the Federal Chapter 1 educational assistance program for disadvantaged students with computer-based problem solving exercises that incorporate dramatic settings, Socratic debate, and thinking skill development.

HOTS makes use of the newest technologies and learning theory to produce large student gains in reading, writing, math, and science than other remedial approaches, even though no basic skills are taught. According to the U.S. Department of Education's National Diffusion Network, research results show that HOTS students gained almost twice as much in core subjects as the national average for Chapter 1 students. These students who perform well below their peers in the regular classroom respond positively when they are intellectually challenged and become active participants in the learning process.

After 1 year in HOTS, 36 percent of the chapter 1 students at Mary Dill Elementary School in Alter Valley, AZ made the honor roll. At Hopkins, Minnesota's Katherine Curren Elementary, 10 percent of the children were classified as gifted after 1 year in HOTS and placed in the gifted program.

Another program developed by PBS, MacNeil/Lehrer, and Apple Classrooms of the Future—called media fusion—works with news organizations to integrate technology in the classroom. It encourages middle-school students to use computers to search stories featured on the MacNeil/Lehrer news program. It has the benefit of not only teaching students how to use computers and other technological equipment, but it raises their interest in daily events that will affect their lives.

This legislation can be the cornerstone of a Federal educational technology policy for our Nation's elementary and secondary schools. The United States is regarded as the world's leader in higher education. Ninety out of the top 100 colleges and universities in the world are in the United States. This legislation will help us take our place at the top in elementary and secondary education.•

By Mr. HATFIELD:

S. 1042. A bill to amend the Public Health Service Act to establish an Ethical Advisory Board, and for other purposes; to the Committee on Labor and Human Resources.

ESTABLISHMENT OF BIOMEDICAL ETHICS ADVISORY BOARD

• Mr. HATFIELD. Mr. President, I introduce legislation to establish a national Biomedical Ethics Advisory Board to be housed within the Department of Health and Human Services.

Many of my colleagues are aware of my great concern in the area of biomedical ethics. In each session of Congress since 1987, I have introduced legislation to place a moratorium on allowing the Patent and Trademark Office to issue patents on such living organisms. Until this year, Harvard University received the only such patent for the so-called Harvard Mouse.

Mr. President, I am not here to object to the research that is being conducted using these creatures. My record will show that I am committed to the advancement of scientific research. I believe, however, that the elected members of Government have a solemn duty to ensure that serious social and ethical issues are addressed. For me, the idea of issuing patents on living creatures that have been somehow altered by man raises many serious ethical questions.

Those who have followed the rapidly advancing field of biotechnology know that ethical parameters are very difficult to formulate. The issues became more difficult recently when the National Institutes of Health applied for patents on over 2,000 human DNA gene sequences. Gene sequences bear an intimate relationship to the promising research being conducted by the human genome project at NIH, which I strongly support. But the idea of proprietary patent ownership of these fragments of humanity raise concerns that I believe must be addressed.

The elected officials of the United States bear a large part of the responsibility for seeing that ethical issues such as these are raised, and where appropriate, lines are drawn.

Senators KENNEDY, DECONCINI, and I have requested that the Office of Technology Assessment conduct two reports on this issue. The first report will provide a review of the different governmental approaches to issues of bioethics, including the so-called President's Commission and the defunct Biomedical Ethics Board. Preparation for this included an OTA-sponsored symposium held in December. I attended this symposium where a panel of impressive nationally and internationally known experts discussed the history of biomedical ethics and the prospects for future approaches.

My office has been briefed on the draft version of the first OTA report, which is due out later this summer. The second OTA report will offer a detailed review of the ethical, privacy, environmental, and policy issues involved in different areas of biotechnology. This report should be completed sometime in 1994.

In addition to these reports, both Senators KENNEDY and DECONCINI agreed to hold hearings on this topic. Senator DECONCINI presided over a hearing held September 22, 1992 by the Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks. I was proud to testify before Senator DECONCINI'S subcommittee and believe that his efforts to shed light on these issues have been quite constructive.

I am presently at work with Senator KENNEDY and his fine staff and hope to be able to announce a Labor Committee hearing date soon. It appears that the hearing will take place later this summer or early fall.

Mr. President, it has been my goal throughout to foster dialogue on the difficult bioethical issues faced by this country. My hope has been that these efforts would result in the establishment of a permanent body assembled to study bioethical policy issues and make recommendations to the administration and Congress.

Today I am pleased to take a step toward these objectives by introducing legislation to establish a national ethics advisory board to be located within the Department of Health and Human Services. The board established in this legislation would be composed of 15 members. Five members of the board will be appointed by the President, five by the Senate and five by the House. No congressional membership is provided for. While located under the umbrella of HHS, the board would report to the administration and to Congress.

The board would be part of the Federal research review process already in place at HHS. It would also take requests for review from Congress and would have the authority to choose issues to review on its own motion, but would have no authority to veto research initiatives. The purpose of such a board would be to promote the dialogue that is lacking on so many ethical issues today. This is dialogue that must take place if we are to have any hope of rational and informed decision making in the field of bioethics.

In closing, let me note that the reestablishment of a permanent commission is not a universally supported idea. Students of this issue know that past attempts have taken place with mixed, and at times dismal results. Let me make it clear that I am not wedded to the idea of a permanent ethics advisory board, although the information I have reviewed leads me to believe it is the best approach. One of my purposes in introducing this legislation today is to provide a tangible proposal to be debated and focused on during the upcoming hearings in the Labor Committee.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1042

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

SECTION 1. ESTABLISHMENT OF ETHICAL ADVISORY BOARD.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 492 the following new section:

"CERTAIN PROVISIONS REGARDING REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH

"SEC. 492A. (a) REVIEW AS PRECONDITION TO RESEARCH.—

"(1) PROTECTION OF HUMAN RESEARCH SUBJECTS.—

"(A) In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to review under section 491(a) by an Institutional Review Board unless the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting such review.

"(B) In the case of research that is subject to review under procedures established by the Secretary for the protection of human subjects in clinical research conducted by the National Institutes of Health, the Secretary may not authorize the conduct of the research unless the research has, pursuant to such procedures, been recommended for approval.

"(2) PEER REVIEW.—In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to technical and scientific peer review under section 492(a) unless the application has undergone peer review in accordance with such section and has been recommended for approval by a majority of the members of the entity conducting such review.

"(b) ETHICAL REVIEW OF RESEARCH.—

"(1) ESTABLISHMENT OF A STANDING ETHICAL ADVISORY BOARD.—

"(A) Not later than 180 days after the date of enactment of this Act, the Secretary, in accordance with subpart B of part 46 of title 45, Code of Federal Regulations, and with the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, shall establish a standing Ethical Advisory Board (hereafter referred to in this section as the 'Board').

"(B) The Board shall advise, report on, and make recommendations to the Secretary and the Congress regarding the ethical, legal, and social acceptability of supporting specific biomedical and behavioral research designs, applications, or proposals submitted to it by the Secretary or any Agency Head within the Department, and shall prepare reports and make recommendations concerning ethical policies relating to biomedical and behavioral research referred to it by the Secretary, Agency Heads, or Congressional Committees. With the approval of the Secretary, the Board may develop reports and make recommendations concerning other matters that it considers of major importance to the general public.

"(C)(i) The Board shall be composed of 15 individuals who are not officers or employees of the United States to be appointed as follows:

"(I) Five individuals shall be appointed by the President.

"(II) Five individuals shall be appointed by the Speaker of the House of Representatives in consultation with the Minority Leader.

"(III) Five individuals shall be appointed by the Majority Leader of the Senate in consultation with the Minority Leader.

"(ii) In appointing individuals under clause (i), the appointing authority shall ensure that such individuals possess special qualifications and competence to provide advice and recommendations regarding ethical matters in biomedical and behavioral research. Of the members of the Board—

"(I) at least one shall be an attorney;

"(II) at least one shall be a professional ethicist;

"(III) at least one shall be a practicing physician;

"(IV) at least one shall be a theologian; and

"(V) at least one-third, and no more than one-half, of all such members shall be scientists who have made significant contributions to the advancement of biomedical or behavioral science.

"(D) The terms of service of members of the Board shall be for 3 years. The initial members of the Board shall be appointed to serve staggered terms of 1, 2 or 3 years. If a member does not complete a full term of service, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual. A member may be reappointed to serve no more than two consecutive full terms.

"(E) A member of the Board shall be subject to removal from the Board by the Secretary for neglect of duty, malfeasance, or for other good cause as demonstrated by the Secretary.

"(F) The members of the Board shall select one member to serve as the chairperson of the Board. The chairperson shall serve not more than one consecutive 3-year term.

"(G) In carrying out its responsibilities as described in subparagraph (B), the Board shall hold such inquiries, hold public hearings, enter into contracts the aggregate of which shall not exceed $300,000 per year, and report to the Secretary and to the Congress the results and recommendations that result from its deliberations.

"(H) With respect to information relevant to the duties described in subparagraph (B), the Board shall have access to all such information possessed by the Department of Health and Human Services, or available to the Secretary from other sources.

"(I) With respect to the duties described in subparagraph (B), the members of the Board shall receive compensation for each day they are engaged in carrying out the purposes of the Board, including time engaged in traveling for such purposes. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay accorded for individuals GS–18 of the General Schedule.

"(J) The Secretary, acting through the Director of the National Institutes of Health, shall provide the Board with staff and such other assistance necessary to carrying out the duties of the Board.

"(K) Prior to reconstituting the Board, the Secretary shall, through a statement published in the Federal Register, announce the intention of the Secretary to constitute the Board.

"(L) A statement issued under subparagraph (K) shall include a request that interested parties submit to the Secretary recommendations specifying the particular individuals who should be appointed to the Board. The Secretary shall consider such recommendations in making appointments to the Board.

"(M) The appointments to the Board under subparagraph (C) shall not take effect until the expiration of the 30-day period beginning with the date on which the statement required in subparagraph (K) is made with respect to the Board.

"(2) PROCEDURES REGARDING THE WITHHOLDING OF FUNDS.—

"(A) If research has been recommended for approval for purposes of subsection (a), the Secretary may not withhold funding for the research on ethical grounds unless—

"(i) the Secretary refers the proposal within 30 days to the Board in accordance with paragraph (1) to study the ethical implications of the research; and

"(ii)(I) the majority of the Board recommends that, on ethical grounds, the Secretary withhold funds for the research; or

"(II) the majority of the Board recommends that the Secretary not withhold funds for the research on ethical grounds, but the Secretary determines, on the basis of the report submitted under subparagraph (D) that there is a reasonable basis for overruling the Board's recommendations.

"(B) The limitation established in subparagraph (A) regarding the authority to withhold funds on ethical grounds shall apply without regard to whether the withholding of such funds is characterized as a disapproval, a moratorium, a prohibition, or other description.

"(C) Not later than 180 days after the date on which the matter is referred under subparagraph (A) to the Board, the Board shall submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report describing the findings of the Board regarding the project of research involved and making a recommendation under subparagraph (A)(ii) of whether the Secretary should or should not withhold funds for the project. The report shall include the information considered in making the findings.".●

By Mr. GLENN (for himself, Mr. FORD, Mr. MCCONNELL, and Mr. LUGAR):

S. 1043. A bill to extend until January 1, 1998, the existing suspension of duty on certain bicycle parts, and for other purposes; to the Committee on Finance.

BICYCLE PARTS DUTY SUSPENSION ACT OF 1993

● Mr. GLENN. Mr. President, today I introduce legislation to amend the Harmonized Tariff Schedule of the United States to suspend the duties on certain bicycle parts until January 1, 1998. I am pleased to have the Senators from Kentucky, Mr. FORD and Mr. MCCONNELL, and the Senator from Indiana, Mr. LUGAR, join me as cosponsors of this bill.

Regular duties on certain bicycle parts not manufactured in the United States have been suspended since 1971. As in the past, this suspension is critical to the competitive health of U.S. bicycle manufacturers, who continue to face intense international competition. Imports have claimed an increas-

share of the U.S. bicycle market; 17 percent in 1979, 30 percent in 1986, 55 percent in 1988, and 37 percent today. This recent positive trend is due primarily to exchange rate adjustments with Taiwan, the principal supplier of imported bicycles. Unfortunately this gain is not likely to be sustained due to an anticipated substantial increase in imports from the People's Republic of China.

Suspension of duties on certain imported bicycle parts is necessary for two basic reasons. First, the bicycle parts covered by the duty suspension are not manufactured in the United States. U.S. bicycle manufacturers must, therefore, purchase these parts abroad. A tariff only penalizes the domestic bicycle manufacturer without protecting a U.S. parts manufacturer. Second, duty suspension also addresses, in part, an unfair bias against domestic bicycle manufacturers in the U.S. tariff schedules. Many imported bicycles are dutiable at a lower rate than most bicycle parts. Imported lightweight bicycles with wheels over 25 inches in diameter face a duty rate of 5.5 percent while most imported bicycle parts face a duty of 10 percent. This anomaly, if uncorrected by duty suspension legislation, enables foreign bicycle manufacturers to assemble bicycles abroad with foreign bicycle parts and import the completed product into the United States subject to the lower duty rate for bicycles. In contrast, our domestic manufacturers must first import certain components necessary to complete the manufacture of a bicycle, because these parts are not available domestically, and these parts come in at the higher rate for parts. The higher price our domestic manufacturers must pay for their imported parts places them at an obvious competitive disadvantage vis-a-vis the foreign competition.

The bill I am introducing today enjoys the support of both the domestic bicycle manufacturers and the domestic bicycle parts manufacturers and is, as far as I know, noncontroversial. Nevertheless, it is vitally important to our domestic bicycle industry's ability to compete against vigorous foreign competition.

I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1043

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

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY ON CERTAIN BICYCLE PARTS.

The following headings of the Harmonized Tariff Schedule of the United States are each amended by striking "12/31/92" and inserting "12/31/97":

(1) Heading 9902.40.11.
(2) Heading 9902.73.12.
(3) Heading 9902.73.15.
(4) Heading 9902.84.79.
(5) Heading 9902.85.12.
(6) Heading 9902.87.14.
(7) Heading 9902.87.15.
(8) Heading 9902.87.16.

SEC. 2. RENEWAL OF EXISTING CUSTOMS EXEMPTION APPLICABLE TO BICYCLE PARTS IN FOREIGN TRADE ZONES.

Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act) (19 U.S.C. 81c(b)) is amended by striking "December 31, 1992" and inserting "December 31, 1997".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law to the contrary, upon a request filed with the appropriate customs officer before the 195th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption of goods to which any amendment made by this Act applies and that was made—

(1) after December 31, 1992; and

(2) before the 15th day after the date of the enactment of this Act;

and with respect to which there would have been a lower duty if the amendment made by this Act had applied to such entry or withdrawal, shall be liquidated or reliquidated as though the amendments made by sections 1 and 2 applied to such entry or withdrawal.●

By Mr. DOLE (for himself, Mr. LUGAR, Mr. GORTON, Mr. D'AMATO, Mr. WALLOP, and Mr. THURMOND):

S. 1044. A bill terminating the United States arms embargo of the Government of Bosnia-Herzegovina; to the Committee on Foreign Relations.

BOSNIA-HERZEGOVINA SELF-DEFENSE ACT OF 1993

Mr. DOLE. Mr. President, I rise today to introduce the Bosnia-Herzegovina Self-Defense Act of 1993—a bill which terminates the United States arms embargo against the Republic of Bosnia-Herzegovina and authorizes no more than $200 million in military assistance to the Government of Bosnia-Herzegovina. I am pleased to be joined by the distinguished Senator from Indiana, Senator LUGAR, the distinguished Senator from Washington, Senator GORTON, the distinguished Senator from New York, Senator D'AMATO, and the distinguished Senator from Wyoming, Senator WALLOP. This legislation, if adopted would be a big step toward restoring Bosnia-Herzegovina's sovereign rights under the United Nations charter. Moreover, it would provide the Bosnians some means to defend themselves. The issue of lifting the arms embargo against the Bosnian Government, is not just a question of fairness, but of the rights of Bosnia as a state and member of the United Nations. The United States arms embargo dates back to July of 1991, when the United States adopted a policy suspending all licenses and other approvals to export or otherwise transfer defense articles and services to Yugoslavia. On September 25, 1991, at the request of Yugoslavia, the U.N. Security Council adopted resolution 713, imposing a mandatory international embargo on all deliveries of weapons and military equipment to Yugoslavia.

This U.N. Security Council action was taken prior to the independence of Bosnia and Herzegovina, prior to the Republic of Bosnia and Herzegovina's admission into the United Nations, and prior to the first acts of aggression against Bosnia. The fact is that the arms embargo was placed on the former Yugoslavia—a state which no longer exists.

The U.N. Charter's article 2 states, "This organization is based on the principle of the sovereign equality of all its members." The meaning of this language is clear, yet Bosnia and Herzegovina has not enjoyed this equal status with respect to the right of self-defense—a right contained in article 51 of the U.N. Charter.

Article 51 states:

> Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

Mr. President, it is obvious that the measures taken by the Security Council to date in response to the aggression against Bosnia and Herzegovina have been inadequate to maintain international peace and security. To the contrary, continued application to Bosnia of the arms embargo that was imposed on the former Yugoslavia has impaired and continues to impair Bosnia's right to self-defense, thereby encouraging further aggression. To put it plainly, the arms embargo has rendered Bosnia virtually defenseless against Serbian forces which inherited the vast military resources of the Yugoslav Army. As a result, more than 70 percent of Bosnia is occupied, more than 2 million Bosnians are homeless, and more than 150,000 people have died.

Mr. President, should the United States be tied to an unjust policy in a U.N. Security Council resolution which because of changed circumstances now violates the U.N. Charter? In my view the answer is "No." The arms embargo doesn't make any sense in policy or legal terms.

I know that the President is committed to a multilateral approach—I support this approach. But, it seems that multi-lateralism has become the primary goal and good policy the secondary goal. Is the United States going to pursue multilateralism for multilateralism's sake? Or is the United States as the world's only super-

power going to construct the best policy and then work to forge a consensus? In my view, it is no great achievement to get an agreement on a policy which amounts to the lowest common denominator.

In December of last year, the U.N. General Assembly overwhelmingly passed a resolution urging that the arms embargo against Bosnia be lifted—and the United States voted in favor of the option. President Clinton and Secretary of State Christopher maintain that the lifting of the arms embargo against Bosnia remains the "preferred option." Some would argue that we should wait for the Security Council to take action to lift the embargo, but this bill offers an alternative to waiting.

I believe that lifting the arms embargo is the least we can do, and I urge the administration to resume the course it set out on 4 weeks ago. The United States should lead the way in doing what is right. The international community may choose not to follow through on collective defense, but it should not and must not stand in the way of Bosnia's right to self defense.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1044

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bosnia-Hercegovina Self-Defense Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) On July 10, 1991, the United States adopted a policy suspending all licenses and other approvals to export or otherwise transfer defense articles and defense services to Yugoslavia.

(2) On September 25, 1991, the United Nations Security Council adopted Resolution 713, which imposed a mandatory international embargo on all deliveries of weapons and military equipment to Yugoslavia.

(3) The United States considered the policy adopted July 10, 1991, to comply fully with Resolution 713 and therefore took no additional action in response to that resolution.

(4) On January 8, 1992, the United Nations Security Council adopted Resolution 727, which decided that the mandatory arms embargo imposed by Resolution 713 should apply to any independent states that might thereafter emerge on the territory of Yugoslavia.

(5) On February 29 and March 1, 1992, the people of Bosnia-Hercegovina voted in a referendum to declare independence from Yugoslavia.

(6) On April 7, 1992, the United States recognized the Government of Bosnia-Hercegovina.

(7) On May 22, 1992, the Government of Bosnia-Hercegovina was admitted to full membership in the United Nations.

(8) Consistent with Resolution 727, the United States has continued to apply the policy adopted July 10, 1991, to independent states that have emerged on the territory of the former Yugoslavia, including Bosnia-Hercegovina.

(9) Subsequent to the adoption of Resolution 727 and Bosnia-Hercegovina's independence referendum, the seige of Sarajevo began and fighting spread to other areas of Bosnia-Hercegovina.

(10) The Government of Serbia intervened directly in the fighting by providing significant military, financial, and political support and direction to Serbian-allied irregular forces in Bosnia-Hercegovina.

(11) In statements dated May 1 and May 12, 1992, the Conference on Security and Cooperation in Europe declared that the Government of Serbia and the Serbian-controlled Yugoslav National Army were committing aggression against the Government of Bosnia-Hercegovina and assigned to them prime responsibility for the escalation of bloodshed and destruction.

(12) On May 30, 1992, the United Nations Security Council adopted Resolution 757, which condemned the Government of Serbia for its continued failure to respect the territorial integrity of Bosnia-Hercegovina.

(13) Serbian-allied irregular forces have, over the last year, occupied approximately 70 percent of the territory of Bosnia-Hercegovina, committed gross violations of human rights in the areas they have occupied, and established a secessionist government committed to eventual unification with Serbia.

(14) The military and other support and direction provided to Serbian-allied irregular forces in Bosnia-Hercegovina constitutes an armed attack on the Government of Bosnia-Hercegovina by the Government of Serbia within the meaning of Article 51 of the United Nations Charter.

(15) Under Article 51, the Government of Bosnia-Hercegovina, as a member of the United Nations, has an inherent right of individual or collective self-defense against the armed attack from the Government of Serbia until the United Nations Security Council has taken measures necessary to maintain international peace and security.

(16) The measures taken by the United Nations Security Council in response to the armed attack on Bosnia-Hercegovina have not been adequate to maintain international peace and security.

(17) Bosnia-Hercegovina has been unable successfully to resist the armed attack from Serbia because it lacks the means to counter heavy weaponry that Serbia obtained from the Yugoslav National Army upon the dissolution of Yugoslavia, and because the mandatory international arms embargo has prevented Bosnia-Hercegovina from obtaining from other countries the means to counter such heavy weaponry.

(18) On December 18, 1992, with the affirmative vote of the United States, the United Nations General Assembly adopted Resolution 47/121, which urged the United Nations Security Council to exempt Bosnia-Hercegovina from the mandatory arms embargo imposed by Resolution 713.

(19) In the absence of adequate measures to maintain international peace and security, continued application to the Government of Bosnia-Hercegovina of the mandatory international arms embargo imposed by the United Nations Security Council prior to the armed attack on Bosnia-Hercegovina undermines that government's right of individual or collective self-defense and therefore contravenes Article 51 of the United Nations Charter.

(20) Bosnia-Hercegovina's right of self-defense under Article 51 of the United Nations Charter includes the right to ask for military assistance from other countries and to receive such assistance if offered.

SEC. 3. UNITED STATES ARMS EMBARGO OF THE GOVERNMENT OF BOSNIA-HERCEGOVINA.

(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia-Hercegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(b) DEFINITION.—As used in this section, the term "United States arms embargo of the Government of Bosnia-Hercegovina" means the application to the Government of Bosnia-Hercegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

SEC. 4. UNITED STATES MILITARY ASSISTANCE FOR BOSNIA-HERCEGOVINA.

(a) POLICY.—The President should provide appropriate military assistance to the Government of Bosnia-Hercegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(b) AUTHORIZATION OF MILITARY ASSISTANCE.—

(1) DRAWDOWN AUTHORITY.—If the Government of Bosnia-Hercegovina requests United States assistance in exercising its right of self-defense under Article 51 of the United Nations Charter, the President is authorized to direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training in order to provide assistance to the Government of Bosnia-Hercegovina. Such assistance shall be provided on such terms and conditions as the President may determine.

(2) LIMITATION ON VALUE OF TRANSFERS.—The aggregate value (as defined in section 664(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, and military education and training provided under this subsection may not exceed $200,000,000.

(3) EXPIRATION OF AUTHORIZATION.—The authority provided to the President in paragraph (1) expires at the end of fiscal year 1994.

(4) LIMITATION ON ACTIVITIES.—Members of the United States Armed Forces who perform defense services or provide military education and training outside the United States under this subsection may not perform any duties of a combatant nature, including any duties related to training and advising that may engage them in combat activities.

(5) REPORTS TO CONGRESS.—Within 60 days after any exercise of the authority of paragraph (1) and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the defense articles, defense services, and military education and training being provided and the use made of such articles, services, and education and training.

(6) REIMBURSEMENT.—(A) Defense articles, defense services, and military education and

training provided under this subsection shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to subparagraph (B).

(B) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 664(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under this subsection.

By Mr. WOFFORD (for himself and Mr. BRADLEY):

S. 1045. A bill to permit States to establish programs using unemployment funds to assist unemployed individuals in becoming self-employed; to the Committee on Labor and Human Resources.

SELF-EMPLOYMENT OPPORTUNITY ACT

• Mr. WOFFORD. Mr. President, today I am introducing on behalf of myself and Senator BRADLEY the Self-Employment Opportunity Act, which would make self-employment a reemployment option under our unemployment compensation system.

The number of people who are unemployed remains unacceptably high across the country. Our economy is not producing enough new jobs and is losing thousands of high paying jobs. In this time of economic hardship, the Federal-State Unemployment Compensation Program is essential to maintaining the well-being of millions of American families. But it's a system under real stress.

Before coming to the Senate, I served as Pennsylvania's secretary of labor and industry for 4½ years, where one of my responsibilities was to administer our State's unemployment compensation program. So I am well aware of its strengths and weaknesses of this system from the ground up.

It is an important program, a complex program, and a program that can be improved and strengthened.

That's why I introduced the Unemployment Compensation, Reemployment and Fairness Act (S. 320). This legislation includes, among other reforms, a requirement for States to review the reemployment prospects of workers soon after they have lost their jobs so that they can receive necessary services and training before they exhaust their benefits. This reform was enacted into law earlier this year as part of the extended benefits' authorization.

S. 320 also includes a provision to permit States to create self-employment programs. Over the past decade, Canada, Australia, and many Western European nations have put in place programs to make self-employment an alternative for reemployment of unemployed workers.

The Department of Labor is now sponsoring two self-employment State programs in Massachusetts and Washington. The Washington Self-Employment Demonstration Project provides selected entrepreneurial training and business support services. Financial assistance in the Washington program, includes: Waiver of the UI work search test; payment of regular weekly benefits equal to the claimant's regular UI benefits; and, a lump-sum payment equal to the participant's remaining UI entitlement upon satisfying specific milestones in the process of starting a business.

The Massachusetts Program provides business assistance services to participants similar to those offered in the Washington program. The financial component in Massachusetts includes an exemption for participants from the regular UI work search requirement and self-employment allowances are paid in the same form as regular UI benefits. Early indications are that both programs are having positive results.

I believe that a self-employment option should be widely available as part of our country's unemployment compensation system. Many skilled people are now being laid off from large companies, like IBM, Sears, and Boeing, which are downsizing to meet international competition. For these people, self-employment is often a real option and an option the Government should encourage.

The Self-Employment Opportunity Act builds upon my earlier legislation and is identical to that introduced in the House of Representatives by Representative RON WYDEN of Oregon. The Senate passed similar legislation last year as part of H.R. 11, which was ultimately vetoed by the President.

There may be some who argue that we should wait until the Massachusetts and Washington pilot programs are completed. But I believe we should not wait. There is a real need among skilled people being laid off from their jobs—many of whom thought they would have their jobs forever—for whom self-employment may be the only real employment option in the near future.

In addition, there are no budgetary costs of moving forward. This legislation would not mandate States to implement self-employment programs. And even if a State chose to establish a self-employment program, it would not cost the Federal Government any additional funds. The legislation specifically provides that approved State programs cannot result in any cost to the unemployment trust fund in excess of the cost that would be incurred by such State if it had not participated in a self-employment program.

When Franklin Roosevelt and the Congress together created our present Unemployment Compensation System, he wanted a program that would be flexible—a program that would reflect and adjust to changing employer and worker needs and economic circumstances. That is the idea behind this legislation.

Mr. President, I ask unanimous consent that the full text of the Self-Employment Opportunity Act appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1045

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Self-Employment Opportunity Act".

SEC. 2. SELF-EMPLOYMENT PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Labor (hereinafter in this section referred to as the "Secretary") may authorize States to establish and operate self-employment programs that meet the requirements of this section.

(b) REQUIREMENTS.—The Secretary may authorize a State self-employment program, if a State applies to participate in such a program, and the Secretary determines that—

(1) the State program does not result in any cost to the Unemployment Trust Fund (established by section 904(a) of the Social Security Act) in excess of the cost that would be incurred by such State and charged to such Fund if the State had not participated in a self-employment program;

(2) the State program provides unemployment benefits only to individuals who are entitled to unemployment compensation under State law (without regard to any disqualification resulting from self-employment and without regard to any State law relating to availability for work, active search for work, or refusal to accept work);

(3) the State program contains a process to target individuals who have been permanently separated from their jobs or do not expect to be recalled to their jobs;

(4) benefits under the State program are available only to individuals who are likely to receive unemployment compensation for the maximum number of weeks that such compensation is available under the State law during a benefit year; and

(5) the aggregate number of individuals receiving benefits under the State program does not at any time exceed 5 percent of the number of individuals receiving compensation under the State law at such time.

(c) BENEFITS.—If the Secretary authorizes a self-employment program for a State under this section, the State may use the State unemployment fund to provide cash unemployment benefits, exclusive of the expenses of administration, to individuals participating in the program. Such benefits shall be used to assist participating individuals in becoming self-employed.

(d) REPORTS.—

(1) STATE REPORTS.—Any State operating a self-employment program authorized by the Secretary under this section shall report annually to the Secretary on the number of individuals who participate in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

(2) REPORTS TO CONGRESS.—Not later than December 31, 1996, based on the reports received from States operating self-employment programs under this section, the Secretary shall report to the Committee on Finance of the Senate and the Committee on

Ways and Means of the House of Representatives with respect to the operation of the State programs. The report shall contain the Secretary's recommendations regarding establishment of a permanent self-employment program as part of the regular unemployment compensation program.

(e) DEFINITIONS.—For purposes of this section, the terms "compensation", "regular compensation", "benefit year", "State", and "State law", have the respective meanings given such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) TERMINATION.—The provisions of this section shall not apply after September 30, 1997.

By Mr. MOYNIHAN:

S. 1046. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space allocated for parking; to the Committee on Rules and Administration.

ARC OF PARK CAPITOL GROUNDS IMPROVEMENT ACT OF 1993

Mr. MOYNIHAN. Mr. President, just over 92 years ago, in March 1901, the Senate Committee on the District of Columbia was directed by Senate Resolution to "report to the Senate plans for the development and improvement of the entire park system of the District of Columbia * * * (F)or the purpose of preparing such plans the committee * * * may secure the services of such experts as may be necessary for a proper consideration of the subject."

And secure "such experts" the committee assuredly did. The Committee formed what came to be known as the McMillan Commission, named for committee chairman, Senator James McMillan of Michigan. The Commission's membership was a "who's who" of late 19th and early 20th-century architecture, landscape design, and art: Daniel Burnham, Frederick Law Olmsted, Jr., Charles F. McKim, and Augustus St. Gaudens. The Commission traveled that summer to Rome, Venice, Vienna, Budapest, Paris, and London, studying the landscapes, architecture, and public spaces of the grandest cities in the world. The McMillan Commission returned and fashioned the city of Washington as we now know it.

We are particularly indebted today for the Commission's preservation of the Mall. When the members left for Europe, the Congress had just given the Pennsylvania Railroad a 400-foot wide swath of the Mall for a new station and trackage. It is hard to imagine our city without the uninterrupted stretch of greenery from the Capitol to the Washington Monument, but such would have been the result. Fortunately, when in London, Daniel Burnham was able to convince Pennsylvania Railroad president Cassatt that a site on Massachusetts Avenue would provide a much grander entrance to the city. President Cassatt assented and Daniel Burnham gave us Union Station.

But the focus of the Commission's work was the District's park system. The Commission noted in its report:

Aside from the pleasure and the positive benefits to health that the people derive from public parks, in a capital city like Washington there is a distinct use of public spaces as the indispensable means of giving dignity to Government buildings and of making suitable connections between the great departments * * * (V)istas and axes; sites for monuments and museums; parks and pleasure gardens; fountains and canals; in a word all that goes to make a city a magnificent and consistent work of art were regarded as essential in the plans made by L'Enfant under the direction of the first President and his Secretary of State.

Washington and Jefferson might be disappointed at the affliction now imposed on much of the Capitol Grounds by the automobile.

Despite the ready and convenient availability of the city's Metrorail system, an extraordinary number of Capitol Hill employees drive to work. No doubt many must. But must we provide free parking? If there is one lesson learned from the Intermodal Surface Transportation Efficiency Act of 1991, it is that free goods are always wasted. Free parking is a most powerful incentive to drive to work when the alternative is to pay for public transportation. Furthermore, much as expenses rise to meet income, newly provided parking spaces are instantly filled. At the foot of Pennsylvania Avenue is a scar of angle-parked cars, in parking spaces made available temporarily during construction of the Thurgood Marshall Federal Judiciary Building. Once completed, spaces in the building's garage would be made available to Senate employees and Pennsylvania Avenue would be restored. Not so. The demand for spaces has simply risen to meet the available supply, and the unit block of the Nation's main street remains a disaster.

Today, I am introducing legislation to improve the Capitol Grounds through the near-complete elimination of surface parking. As the Architect of the Capitol eliminates these unsightly lots, they will be reconstructed as public parks, landscaped in the fashion of the Capitol Grounds. I envision what I call an arc of park sweeping around the Capitol from Second Street, Northeast, around to the Capitol Reflecting Pool, and thence back to First Street, Southeast. Delaware Avenue between Columbus Circle and Constitution Avenue would be closed to traffic and rebuilt as a pedestrian walkway, a grand pathway to the Capitol from Union Station.

Finally, there is still the matter of parking. This legislation authorizes the Architect of the Capitol to construct underground parking facilities, as needed. These facilities, which will undoubtedly be expensive, will be financed simply by charging for the parking. A legitimate user fee.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1046

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arc of Park Capitol Grounds Improvement Act of 1993".

SEC. 2. CAPITOL GROUNDS IMPROVEMENT PLAN.

(a) The Architect of the Capitol is authorized to develop and implement a comprehensive plan for the improvement of the grounds of the United States Capitol as described in 40 U.S.C. 193a. Such plan shall be consistent with the 1981 Report on the "Master Plan for the Future Development of the Capitol Grounds and Related Areas" prepared in accordance with Pubic Law 94-59 (July 25, 1975). Such plan shall result in an "arc of park" sweeping from Second Street, Northeast to the Capitol Reflecting Pool to First Street, Southeast, with the Capitol building as its approximate center. Such plan shall provide for, at a minimum:

(1) elimination of all current surface parking areas, excepting those areas which provide on-street parallel parking spaces;

(2) replacement of off-street surface parking areas with public parks. such parks shall be landscaped in a fashion appropriate to the United States Capitol grounds;

(3) reconstruction of Delaware Avenue, Northeast, between Columbus Circle and Constitution Avenue as a thoroughfare available principally to pedestrians as contemplated by the Master Plan;

(4) elimination of all but parallel parking on Pennsylvania Avenue, between First and Third Streets, Northwest;

(5) to the greatest extent practical, continuation of the Pennsylvania avenue tree line onto United States Capitol Grounds and implementation of other appropriate landscaping measures necessary to conform Pennsylvania Avenue between First and Third Streets, Northwest, to the aesthetic guidelines adopted by the Pennsylvania Avenue Development Corporation;

(6) closure of Maryland Avenue to through traffic between First and Third Streets, Southwest, consistent with appropriate access to and visitor parking for the United States Botanic Garden;

(7) construction of additional underground parking facilities, as needed. the cost of construction and operation of such parking facilities shall be defrayed to the greatest extent practical by charging appropriate usage fees, including time-of-day fees. Such parking facilities shall be made available to the general public, with priority given to employees of the Congress.

SEC. 3. APPLICABLE LOCAL LAW.

The construction and operation of any improvements under this Act shall not be subject to any law of the District of Columbia or any State or locality relating to taxes on sales, real estate, personal property, special assessments, uses or any other interest or transaction (including any such law enacted by Congress), nor shall they be subject to any law of the District of Columbia relating to use, occupancy or construction, including without limitation building codes, permits, or inspection requirements (including such laws enacted by Congress); provided, however, that the Architect of the Capitol shall comply with appropriate recognized national life safety and building codes in undertaking such construction and operation.

SEC. 4. RESPONSIBILITIES OF THE ARCHITECT OF THE CAPITOL.

The Architect of the Capitol shall be responsible for the structural, mechanical and custodial care and maintenance of the facilities constructed under the Act and may discharge such responsibilities directly or by contract. The Architect of the Capitol may permit the extension of steam and chilled water from the Capitol Power Plant on a reimbursable basis to any facilities or improvements constructed under this Act as a cost of such improvements.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Ther are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. MURKOWSKI:

S. 1047. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

GROSS FAMILY LAND ACT OF 1993

• Mr. MURKOWSKI. Mr. President, I introduce legislation which would convey certain property located in the Tongass National Forest to Mr. Daniel J. Gross, Sr., and to his brother, Mr. Douglas K. Gross.

The legislation I am introducing today is identical to legislation I introduced during the 102d Congress.

Mr. President, in the early 1930's, Mr. and Mrs. William Lee Gross homesteaded 160.8 acres of land at Green Point on the Stikine River in Southeast Alaska. For many years William Lee and his wife Bessie lived on this land raising their family.

Unfortunately, the Gross' legal documentation to their land was destroyed during a fire in the family home in the winter of 1935–36. Without title to their parents land, Doug and Dan Gross have no legal documentation to the land their parents homesteaded. Without this legislation, the Grosses are in danger of losing their homestead forever.

The Forest Service refused to compromise with Doug and Dan Gross, and will not transfer the title of this land. In fact, the Forest Service already informed me they will oppose any legislation conveying title of this land to Doug and Dan Gross.

It is my hope that congressional consideration of this bill will prompt the Forest Service to reconsider their position and an acceptable compromise will be negotiated.

Doug and Dan Gross have been waiting for this issue to be resolved for over 10 years. If the Forest Service will not transfer title of the Gross' land, I will move to correct this injustice with legislation during the 103d Congress.•

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. DASCHLE):

S. 1049. A bill to protect Lechuguilla Cafe and other resources and values in and adjacent to Carlsbad Caverns National Park, and for other purposes; to the Committee on Energy and Natural Resources.

LECHUGUILLA CAVE PROTECTION ACT OF 1993

• Mr. BINGAMAN. Mr. President, I introduce legislation that will provide needed additional protection to Lechuguilla Cave and other cave resources located in Carlsbad Caverns National Park. The entrance to Lechuguilla Cave is about 2,000 feet south of the northern boundary of Carlsbad Caverns National Park, within the part of that National Park System unit that has been designated as wilderness.

The cave's existence has been known since the early part of this century, but in 1986 a series of digs led to discovery of a passage leading into more than 60 miles of previously undiscovered passageways. Lechuguilla, the deepest known cave in the United States and more extensive than Carlsbad Cavern itself, has many rare features, including gypsum chandeliers that are described as the best examples in the world of such formations, and overall is considered among the best and most important cave resources in the world.

Carlsbad Caverns National Park is closed to mineral exploration and development, but adjacent public lands are not. Geologists are concerned that too-close mineral development activities would risk unintended alteration of cave structures or contamination of Lechuguilla and other caves.

Last week, the House passed legislation to protect Lechuguilla Cave which was the result of a good deal of hard work and compromise. I want to commend my colleagues BRUCE VENTO, chairman of the Parks and Public Lands Subcommittee of the House Natural Resources Committee, the ranking member of the subcommittee, Congressman HANSEN, and Congressman JOE SKEEN of the Second District of New Mexico for their work.

The legislation I am introducing here today, along with my colleague from New Mexico, Senator DOMENICI, and Senator DASCHLE, who has taken an active interest in this matter, is companion legislation to the bill passed in the House.

The Lechuguilla Cave Protection Act of 1993 requires the following:

Withdrawal from multiple use of approximately 6,280 acres of public lands that are within a designated "cave protection area." No new leases for oil, gas, mining, or other activities will be let in this area.

Where there are existing leases, drilling for mineral resources will be suspended for up to 1 year, or until the Dark Canyon Environmental Impact Statement is completed, whichever occurs first. During this time, the Secretary is directed to enter into negotiations with leaseholders, if necessary, for termination of the lease or for other restrictions, as necessary, in order to ensure that the cave resources are protected. The Secretary is directed to take such steps he deems appropriate to protect Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area.

The legislation also instructs the Secretary to work with private property owners and the State of New Mexico to secure their cooperation for protection of Lechuguilla Cave and other significant cave resources of Carlsbad Caverns.

Mr. President, this bill provides direct and unambiguous protection for the cave resources, while laying out a clear path for handling of existing mineral leases in the cave resource protection area. I urge my colleagues to support speedy passage of this bill in the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1049

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lechuguilla Cave Protection Act of 1993".

SEC. 2. FINDINGS.

Congress finds that Lechuguilla Cave and other significant cave resources of Carlsbad Caverns National Park and adjacent public lands in the cave protection area have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

SEC. 3. DEFINITIONS.

As used in this Act (except as otherwise specified in this Act):

(1) CAVE PROTECTION AREA.—The term "cave protection area" means the lands within the area depicted on the map referred to in section 4(b).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) OTHER TERMS.—All other terms, including the term "public lands", shall have the same meaning as the terms have in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

SEC. 4. LAND WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, the approximately 6,280 acres of public lands within the boundaries of the cave protection area that are subject to or may become subject to the operation of the public land laws, are withdrawn from all forms of appropriation or disposal under the public land laws (including the mining and material disposal laws) and from the operation of the mineral leasing and geothermal leasing laws.

(b) LAND DESCRIPTION.—The lands referred to in subsection (a) are the lands generally depicted on the map entitled "Lechuguilla Cave Protection Area" dated April 1993 and filed in accordance with subsection (c).

(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—

(1) IN GENERAL.—As soon as is practicable after the date of enactment of this Act, the

Secretary shall publish in the Federal Register a notice containing the legal description of the lands withdrawn under subsection (a) and shall file the legal description and a detailed map of the lands referred to in subsection (a) with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) FORCE AND EFFECT.—The map and legal description referred to in paragraph (1) shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors in the map and legal description.

(3) INSPECTION.—Copies of the map and legal description referred to in subsection (b) shall be available for public inspection in the offices of the Director and appropriate State Director of the Bureau of Land Management.

(d) MANAGEMENT.—The public lands withdrawn under subsection (a) shall be managed by the Secretary, acting through the Director of the Bureau of Land Management, pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws, including this Act.

SEC. 5. MANAGEMENT OF EXISTING LEASES.

(a) SUSPENSION OF NEW DRILLING.—

(1) IN GENERAL.—

(A) PROHIBITION.—The Secretary shall not permit any new drilling on or involving any valid mineral or geothermal leases within the lands withdrawn under section 4.

(B) SUSPENSION.—The Secretary shall require the suspension of any activities with respect to mineral or geothermal leases if the Secretary determines that to do so is necessary to prevent an adverse impact on Lechuguilla Cave or other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area.

(2) DURATION.—

(A) IN GENERAL.—The prohibition on new drilling imposed by the Secretary under paragraph (1) shall remain in effect until the effective date of a record of decision regarding the proposal to drill is analyzed in the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act, whichever occurs first.

(B) AFTER PROHIBITION PERIOD.—Nothing in this subsection shall be construed to require the Secretary to permit or prohibit new drilling after the period specified in subparagraph (A).

(b) NEGOTIATIONS.—

(1) AGREEMENTS FOR TERMINATION OF LEASES.—During the period specified in subsection (a)(2), the Secretary shall seek the agreement of the holder of a valid existing mineral or geothermal lease on the public lands withdrawn under section 4(a) for the termination of the lease or to such restrictions on activities on lands covered by the lease as the Secretary determines to be appropriate to protect Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area. The Secretary shall seek such agreement with due regard to the value of the oil and gas resources which the owners thereof will not be allowed to recover or produce.

(2) NO AGREEMENT.—

(A) IN GENERAL.—With respect to any lease for which no agreement of the type described in paragraph (1) has been reached at the end of the period specified in subsection (a)(2), the Secretary shall take such steps as the Secretary determines to be appropriate to protect Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area.

(B) OPTIONS.—The steps referred to in subparagraph (A) may include acquisition of the lands covered by the lease or other interests. In the event of an acquisition, any lands or interests therein acquired by the Secretary shall be managed pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws, including this Act.

(3) COOPERATION OF OTHER PARTIES.—To the extent the Secretary determines is desirable, the Secretary shall seek the cooperation of the State of New Mexico and any other parties owning lands within the cave protection area with respect to such restrictions on the use of relevant lands owned by the parties as the Secretary may suggest to further the protection of Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area.

SEC. 6. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

(a) ADDITIONAL PROTECTION.—

(1) IN GENERAL.—The Secretary shall take additional steps to protect Lechuguilla Cave or the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area, if on the basis of scientific analysis found by the Secretary to be relevant and credible, the Secretary determines it is appropriate to do so.

(2) LIMITATIONS ON ACCESS.—To the extent the Secretary finds appropriate to protect Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park or the lands within the cave protection area, the Secretary may limit or prohibit access to or across lands owned by the United States or prohibit the removal from the lands any mineral, geological, or cave resources except as the Secretary may permit for scientific purposes.

(3) INSUFFICIENT AUTHORITY.—If the Secretary determines that existing law, including this Act, provides the Secretary insufficient authority to take any step the Secretary determines to be desirable to protect Lechuguilla Cave or other significant cave resources of Carlsbad Caverns National Park or the lands within the cave protection area, the Secretary shall inform the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the additional authority the Secretary believes to be necessary.

(b) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to any applicable law, including section 1491 of title 28, United States Code (commonly referred to as the "Tucker Act"), or as precluding any defense or claim otherwise available to the United States in connection with any action seeking compensation from the United States.●

● Mr. DOMENICI. Mr. President, I am pleased to join the other Senator from New Mexico, Senator BINGAMAN, who is sponsoring legislation to protect Lechuguilla Cave, a premier cave, and its associated subterranean environment found within southeast New Mexico.

Lechuguilla Cave, is a world class cave that deserves our protection due to it's spectacular features and the length of its system. Even though the area where Lechuguilla Cave is found has other spectacular cave networks such as the impressive Carlsbad Caverns, Lechuguilla Cave is impressive enough in its own right to stand alone as a treasured resource. The cave is a system with over 59 miles of mapped passages.

While the formation of most caves is created by the dissolution of carbonic acid, Lechuguilla Cave was created from the process of sulfuric acid accumulating along natural fractures, dissolving carbonates, carrying them away and creating an opening in the underground strata. The Capitan Reef area is known for its creation of caves and cavern development, which includes Lechuguilla Cave.

This immense cave, as it is known today, is probably but a small portion of what will eventually be discovered and mapped. The volume of air that moves from its passages far exceeds its present known volumetric size, which suggests that the known cave network may only comprise 2 percent of the total suspected network. What additional passages and connectors within Lechuguilla Cave will be found is impossible to predict, but the likelihood of this already impressively large cave to be of even greater magnitude is highly probable.

Apart from its size, Lechuguilla Cave has other outstanding characteristics, such as its formations and environment, which are reason enough for its protection. The evolution to the present cave environment suggests that this process was unique. It is the only cave that subaqueous helectite formations. Many of the more common formations found within the cave are considered some of the best and most impressive examples in the world. But this cave environment is intriguing not only for its internal structural architecture, but also for its biological community. The discovery of the cave has led to the finding of several species of bacteria which oxidize sulfur in order to obtain energy, a chemosynthetic ecosystem. This chemical process of using mineral elements for energy production is an extremely rare physical-biological relationship used by bacteria.

Lechuguilla Cave has been fortunate, for it has been treated gently by those that have entered to learn and enjoy its special attractions. Special effort has been exercised to keep the influences of human intrusion into this environment at a minimum, with man as a mere visitor into one of nature's extraordinary environments. Therefore, we have the opportunity to have a cave ecosystem that is minimally impacted from man, and therefore, available for scientific study of its unique physical and biological interrelationships. The cave offers a rare opportunity which must be protected by controlling future activities in and around the cave.

The local geology of the area produces reservoirs of valuable oil and natural gas. The area is located in the Capitan Reef complex, one of the most exposed and most studied reef complexes in the world. It lies between the northwest shelf and the Delaware Basin of the Permian Basin structure. The geologic stratigraphy and structure around the cave formation have potential for gas production, with gas production leases already within the protection area. Mineral leases have been obtained by holders who obtained these leases before the cave was discovered, with the expectation that they would be allowed to bring these leases into full production.

The potential conflict between cave resources and mining requires detailed environmental information to properly assess whether mining can be carried out consistent with adequate protection of the cave. Obviously, no new leases would be authorized within the protection area. For the existing mineral leases, the Bureau of Land Management is conducting the Dark Canyon environmental impact statement on an area around the cave. The impact statement addresses the compatibility of drilling the present leases within the area. This legislation does not attempt to override agency assessment and subsequent action of the existing leases, but emphasizes the importance of the cave and need for a determination on the compatibility of drilling. The Bureau of Land Management's Dark Canyon environmental impact statement should be completed this fall, when a decision will be made on whether and how to drill on these existing leases. It is important to both the supporters of cave protection and those who hold leases that the Bureau of Land Management's decision on drilling is made based upon the best scientific information available and made expeditiously.

I strongly believe that the Lechuguilla Cave should be protected due to the significance of this cave resource, but I recognize that providing protection may affect valid interests of the mineral leaseholders. It is appropriate that under this bill, the leaseholders will be kept involved in the decision process and that a solution be found that is reasonable and fair to all affected interests.●

By Mr. MITCHELL (for Mr. KRUEGER):

S. 1050. A bill to designate the Federal building located at 525 Griffin Street in Dallas, TX; as the "A. Maceo Smith Federal Building;" to the Committee on Environment and Public Works.

A. MACEO SMITH FEDERAL BUILDING ACT OF 1993

Mr. KRUEGER. Mr. President, I introduce legislation that will result in a long overdue recognition of a great American and great leader in the black community in Texas.

Founder of the Negro Chamber of Commerce in the early 1930's, A. Maceo Smith was a vital force in integrating black Americans into the business and political community for more than 40 years. Through his example and motivation, a generation and more of black Americans have sought an education that might otherwise have passed them by, have pursued careers in commerce and public service that they might never have had access to, and have taken a rising place in the lives of Texas and especially Dallas.

The bill I am introducing designates the building at 525 Griffin Street in Dallas as the A. Maceo Smith Federal Building. Through this bill, Mr. President, A. Maceo Smith will become the first black American to have a Federal building named in his honor in the city of Dallas. This first is a fitting monument to the life of a distinguished and accomplished man who inspired so many hearts and careers.

I ask unanimous consent that following my remarks the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1050

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

SECTION 1. DESIGNATION.

The Federal building located at 525 Griffin Street in Dallas, Texas, is designated as the "A. Maceo Smith Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "A. Maceo Smith Federal Building".

By Mr. MACK (for himself and Mr. GRAHAM):

S. 1051. A bill to amend title XVIII of the Social Security Act to extend the period during which Medicare-dependent, small rural hospitals receive additional payments under the Medicare Program for the operating costs of inpatient hospital services, to revise the criteria for determining whether hospitals are eligible for such additional payments, and to provide additional payments under the Medicare Program to other Medicare-dependent hospitals; to the Committee on Finance.

HIGH MEDICARE HOSPITAL RELIEF ACT OF 1993

● Mr. MACK. Mr. President, I wanted to bring to the attention of my colleagues a hospital payment issue of critical importance to Medicare's beneficiaries. This issue concerns high-Medicare hospitals, those hospitals with a disproportionate share of their inpatient days devoted to the care of Medicare patients. There are approximately 600 high-Medicare hospitals nationwide, in both urban and rural areas, which continue to struggle financially on a day-to-day basis, while providing quality health care to an ever-growing Medicare patient population.

High-Medicare hospitals are experiencing severely reduced, and in many cases, negative Medicare operating margins. Because of the very nature of these hospitals, there are few privately insured patients to compensate for Medicare losses. They have little or no choice but to either cut back on medical personnel or consider a reduction in services. Additionally, when these hospitals attempt to cost-shift, they become less competitive and risk losing the few non-Medicare payers for whom they provide care.

To address the plight of these high-Medicare hospitals, Senator GRAHAM has joined me in introducing the High Medicare Hospital Relief Act of 1993. This bill provides relief under the prospective payment system [PPS] for urban and large rural high-Medicare hospitals and it continues the relief currently afforded small rural Medicare-dependent hospitals. The legislation extends until March 31, 1996, the relief given to rural Medicare-dependent hospitals under OBRA '89. For urban and large rural high-Medicare hospitals, the bill provides an additional per case payment of 3 percent. The intent of this legislation is to place these Medicare-dependent hospitals on an equal footing with other PPS hospitals. This relief will protect Medicare-dependent hospitals which are most vulnerable to any further reductions in Medicare reimbursements.

Mr. President, this issue is not a question of large States versus small State. It is not a question of urban areas versus rural areas. It is, quite simply, a question of fairness and equity for all hospitals providing health care to America's seniors.

The hospitals which would benefit from this legislation are vital to our Nation's health care system and I urge my colleagues to support this measure.●

● Mr. GRAHAM. Mr. President, today I am reintroducing legislation to provide relief to our Nation's high-Medicare hospitals.

This is the third time in which Senator MACK and I have joined together to sponsor this legislation. In past years we could not solve the problems of struggling hospitals devoting over 65 percent of their inpatient days to the care of Medicare patients. Since 1983, these margins have continued to increase. Thus, each year that we do not assist these hospitals, their financial status worsens.

Over 600 hospitals nationwide are high-Medicare hospitals, and about 50 of these hospitals are located in Florida. These hospitals face constantly escalating pressures under Medicare's hospital prospective payment system [PPS]. Indeed, Medicare data show that high-Medicare hospitals have average Medicare operating margins considerably below that of other facilities. Again, these margins worsen each year.

This trend is disturbing as high-Medicare hospitals are particularly limited in their ability to make up PPS reimbursement shortfalls through non-Medicare payors. In other words, Medicare is the primary source of reimbursement for these hospitals.

Congress did recognize the legitimacy of this problem in 1989 during the enactment of legislation to provide temporary financial relief to certain, small, rural Medicare-dependent hospitals. This measure, however, did not include urban or larger rural hospitals.

The bill we are introducing today utilizes the same philosophy as the Medicare-dependent legislation, but includes urban and larger rural hospitals. In short, the bill would provide a payment adjustment for high-Medicare hospitals to place them in parity with other hospitals reimbursed under PPS.

Mr. President, in the past, ProPAC has acknowledged that operating margins for high-Medicare hospitals are lower than average operating margins for hospitals. ProPAC, however, recommended further review of the issue before supporting a special payment adjustment for high-Medicare hospitals. It is my hope that ongoing work by ProPAC will result in an explanation of this problem and, ultimately, a solution.

In the meantime, we must help the struggling hospitals whose plight worsens each year. I ask my colleagues to support this temporary adjustment during the reconciliation process.●

By Mr. HOLLINGS (for himself, Mr. STEVENS, and Mr. KERRY):

S. 1052. A bill to authorize appropriations for fiscal year 1994 and 1995 for the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COAST GUARD AUTHORIZATION ACT OF 1993

Mr. HOLLINGS. Mr. President, today I am introducing the Coast Guard Authorization Act of 1993, and I am pleased to be joined in this effort by my colleagues Senators KERRY and STEVENS, who are cosponsors of the bill. This bill provides the core authorization for the Coast Guard for fiscal years 1994 and 1995. The authorization is consistent with the administration's budget request of $3.812 billion for fiscal year 1994, and represents about a 4-percent overall increase from the level appropriated in fiscal year 1993. The authorization levels for fiscal year 1995 reflect current services with modest increases for inflation and to maintain planned procurement schedules.

As in previous years, the Coast Guard budget does not fully reflect the magnitude of duties performed by this branch of the armed services. The funding levels authorized will require the Coast Guard to continue running a tight ship, particularly given its numerous responsibilities. As I have stated before, in 1790, when the Coast Guard was first established, its mission was straightforward—to prevent smuggling and collect tax revenues. Since that time, its responsibilities have been expanded significantly to include search and rescue, fisheries law enforcement, drug interdiction, aids to navigation, marine safety, and marine environmental protection. The proposed funding levels in this bill are the minimums needed by the Coast Guard to carry out its many missions.

Coast Guard budget accounts in the legislation are summarized below. Funding levels for fiscal year 1993 are provided for reference.

[In millions of dollars]

	Enacted fiscal year 1993	Authorization—Fiscal year	
		1994	1995
Operating expenses	2,558	2,610	2,712
Acquis, constr., & improve.	340	414	596
Environmental compliance	22	23	24
Research and development	28	25	26
Retired pay	520	549	580
Alteration of bridges	13	13	13

Over two-thirds of the Coast Guard's budget supports operating expenses. This account provides for the operation and maintenance of the multipurpose vessels, aircraft, and shore vessels used to carry out the Coast Guard's missions.

The authorization for capital improvements in this bill will be used for major improvements such as vessel and aircraft acquisition and rehabilitation, information management, and construction and improvement at shore and offshore facilities. Some major initiatives continuing through the next year are replacement of seagoing and coastal buoy tenders, motor lifeboats, and the icebreaker. Also included is funding for the vessel traffic services [VTS] system, a modern port surveillance system that reduces the risk of collisions and groundings. The funding for VTS responds to a 1992 "Port Needs Study" released by the Coast Guard, which identified high-risk ports that would benefit from VTS implementation.

The bill contains $549 million in fiscal year 1994 and $580 million in fiscal year 1995 for payments to the retired military personnel of the Coast Guard, Coast Guard Reserve, and former lighthouse service members. Other funding authorizations in the bill include environmental compliance and restoration, research and development, and bridge alteration. Spending for environmental compliance is needed to bring current and former Coast Guard facilities into conformance with national environmental standards.

The legislation also contains several provisions which amend existing Coast Guard administrative statutes. These provisions would: First, authorize military strength levels and eliminate the permanent ceiling on commissioned officers; second, bring Coast Guard flag officer personnel management into conformance with other branches of the uniformed services; third, raise the rank of the chief of staff; fourth, provide for long-term lease of housing or condominiums for personnel and of navigation and communications systems sites; fifth, allow the Coast Guard Academy to compete for educational research grants; and sixth, change the definition of unmanned seagoing barges.

Finally, title VI of the Coast Guard Reauthorization Act comprises the Passenger Vessel Safety Act of 1993. Under current law, Coast Guard regulations require documented vessels carrying six or more passengers-for-hire to meet safety standards and be inspected. By contrast, safety standards for private recreational vessels are lower, and no inspection is required. Passenger vessel requirements do not apply to boats chartered without a crew, referred to as bare-boat charters, because the charterer is acting in the capacity of owner. Now, short-term charters, such as a dinner cruise for 100–200 people, are being offered as bare-boat charters, and as a result, inspection and safety requirements are not implicated. This title corrects that potentially dangerous situation.

Mr. President, I commend the Coast Guard for the missions it performs. Whether it is the rescue of Haitian or Cuban migrants, drug interdiction or fisheries law enforcement, vessel safety inspection or search and rescue operations, the Coast Guard steps forward when called. The men and women of the Coast Guard respond with equal dedication during war and during peace time. I ask my colleagues to recognize this service by joining me in supporting Coast Guard authorization legislation.

I ask that the text of the bill I am introducing today be printed in full in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1052

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1993".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1994.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1994, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,609,000, of which—

(A) $25,000,000 shall be derived from the Oil Spill Liability Trust Fund; and

(B) $32,250,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related

thereto, $414,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $25,000,000, to remain available until expended, of which $4,457,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $548,774,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $12,940,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $23,057,000, to remain available until expended.

(b) FISCAL YEAR.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,711,762,000, of which—

(A) $26,000,000 shall be derived from the Oil Spill Liability Trust Fund; and

(B) $33,500,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $596,000,000, to remain available until expended, of which $20,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test and evaluation, $25,750,000, to remain available until expended, of which $4,600,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $579,500,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $13,289,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard Facilities, $23,749,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,138 as of September 30, 1994 (of which not more than 6,400 shall be commissioned officers), and 39,138 as of September 30, 1995 (of which not more than 6,400 shall be commissioned officers). The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,986 student years for fiscal year 1994 and 1,986 student years for fiscal year 1995.

(2) For flight training, 114 student years for fiscal year 1994 and 114 student years for fiscal year 1995.

(3) For professional training in military and civilian institutions, 338 student years for fiscal year 1994 and 338 student years for fiscal year 1995.

(4) For officer acquisition, 955 student years for fiscal year 1994 and 955 student years for fiscal year 1995.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. ELIMINATION OF PERMANENT CEILING ON NUMBER OF COMMISSIONED OFFICERS.

(a) ELIMINATION OF CEILING.—Section 42 of title 14, United States Code, is amended by striking subsection (a), and by redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 42(d) of title 14, United States Code, as redesignated by subsection (a) of this section, is amended by striking "subsection (c)" and inserting in lieu thereof "subsection (b)".

(2) The section heading for section 42 of title 14, United States Code, is amended by striking "Number and distribution" and inserting in lieu thereof "Distribution".

(3) In the analysis for chapter 3 of title 14, United States Code, the time relating to section 42 is amended by striking "Number and distribution" and inserting in lieu thereof "Distribution".

SEC. 202. INCREASED GRADE FOR CHIEF OF STAFF.

(a) AUTHORITY FOR GRADE OF VICE ADMIRAL.—(1) Chapter 3 of title 14, United States Code, is amended by inserting immediately after section 50 the following new section:

"§ 50a. Chief of Staff.

"(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform such duties as the Commandant may prescribe. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointment.

"(b) The Chief of Staff shall, while so serving, have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The analysis for chapter 3 of title 14, United States Code, is amended by inserting immediately after the item relating to section 50 the following new item:

"50a. Chief of Staff.".

(b) ELIMINATION OF UNNECESSARY SENIORITY EXCEPTION.—Section 41a(b) of title 14, United States Code, is amended by striking ", except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay".

(c) CLERICAL AMENDMENTS.—Section 41a of title 14, United States Code, is amended—

(1) in subsection (c), by striking "his" and inserting in lieu thereof "that person's"; and

(2) in subsection (d), by striking "he" and inserting in lieu thereof "that officer", and by striking "his" and inserting in lieu thereof "that officer's".

SEC. 203. CONTINUITY OF GRADE OF ADMIRALS AND VICE ADMIRALS.

(a) RETIREMENT.—(1) Section 51 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

"(1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

"(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, Area Commander, or Chief of Staff and ending on the day before the officer's retirement, but not for more than 60 days.".

(2) Section 51 of title 14, United States Code, is further amended—

(1) in subsections (a) and (b), by striking "as Commander, Atlantic Area, or Commander, Pacific Area" each place it appears and inserting in lieu thereof "in the grade of vice admiral"; and

(2) in subsection (c), by striking "his" and inserting in lieu thereof "that officer's".

(b) ELIMINATION OF UNNECESSARY PROVISION FOR CHIEF OF STAFF.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (a), by striking "or in the position of Chief of Staff" in the second sentence; and

(2) in subsection (f), by striking "Chief of Staff or" each place it appears.

(c) CONFORMING AMENDMENT RELATING TO RETIREMENT OF COMMANDANT.—Section 46(a) of title 14, United States Code, is amended by striking "shall, at the expiration of his term, be retired with the grade of admiral." and inserting in lieu thereof "shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in section 51(d) of this title.".

(d) CONFORMING AMENDMENTS RELATING TO RETIREMENT OF VICE COMMANDANT.—(1) Section 47 of title 14, United States Code, is amended—

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

(B) in subsection (a)—

(i) by striking "(a)" at the beginning; and

(ii) by striking the last sentence and inserting in lieu thereof "The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The section heading for section 47 of title 47, United States Code, is amended by striking "; retirement".

(3) The item relating to section 47 in the analysis for chapter 3 of title 14, United States Code, is amended by striking "; retirement".

(e) CONFORMING AMENDMENTS RELATING TO AREA COMMANDERS.—Section 50 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "his" and inserting in lieu thereof "that area commander's"; and

(2) in subsection (b) by striking the last sentence and inserting in lieu thereof "The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

SEC. 204. VOLUNTEER SERVICES.

Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (r);

(2) by striking the period at the end of subsection (s) and inserting in lieu thereof "; and"; and

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

"(t) enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals, and accept and utilize voluntary services, notwithstanding section 1342 of title 31, United States Code, to provide for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

"(1) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; and

"(2) a cooperative agreement under this subsection shall provide for the Commandant and the other party or parties to the agreement to—

"(A) contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement; or

"(B) furnish services on a matching basis to carry out such programs, projects, and activities; or

"(C) both contribute funds as described in subparagraph (A) and furnish services as described in subparagraph (B).".

SEC. 205. RESERVE RETENTION BOARDS.

Section 741(a) of title 14, United States Code, is amended by striking "and are not on active duty and not on an approved list of selectees for promotion to the next higher grade" and inserting in lieu thereof "except those officers who are on extended active duty, are on a list of selectees for promotion, will complete 30 years' total commissioned service by 30 June next following the date on which the retention board is convened, or have reached age 59 by the date on which the retention board is convened".

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICE MANAGEMENT

SEC. 301. NORTH ATLANTIC ROUTES.

Sections 3 and 5 of the Act of June 25, 1936 (46 U.S.C. App. 738b and 738d), are repealed.

SEC. 302. TECHNICAL AMENDMENT FOR BOAT SAFETY ACCOUNT.

Section 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)(A)(ii)) is amended—

(1) by striking "No" at the beginning of subclause (II) and inserting in lieu thereof "Subject to subclause (III), no"; and

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

"(III) CALCULATION OF AMOUNT IN ACCOUNT.—Amounts previously appropriated from the Aquatic Resources Trust Fund for carrying out the purposes of section 13106 of title 46, United States Code, but not distributed, shall not be included when calculating whether the Boat Safety Account exceeds the limit established in subclause (II).".

SEC. 303. UNMANNED SEAGOING BARGES.

Section 3302 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(m) A seagoing barge is not subject to inspection under section 3301 of this title if the vessel is—

"(1) unmanned; and

"(2) does not carry oil in bulk or a reportable or harmful quantity of a hazardous material.".

TITLE IV—ENGINEERING AND DEVELOPMENT AMENDMENTS

SEC. 401. COAST GUARD FAMILY HOUSING.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 670. Procurement authority for family housing

"(a) The Coast Guard, on behalf of the United States, is authorized, where appropriate—

"(1) subject to the availability of appropriations sufficient to cover its full obligations, to acquire real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium related fees; and

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real property or interest therein used for Coast Guard family housing units; except that such disposition shall be made by the General Services Administration in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(b) In procuring real property and interests therein under subsection (a) of this section, the Coast Guard may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(c)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for more than 1, but not more than 5, fiscal years.

"(2) The Coast Guard may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of such a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

"(B) the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.".

"(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new item:

"670. Procurement authority for family housing.".

SEC. 402. AIR STATION CAPE COD IMPROVEMENTS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new section:

"§ 671. Air Station Cape Cod improvements

"The Coast Guard may spend or obligate appropriated funds for the repair, improvement, restoration, or replacement of those federally or non-federally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new item:

"671. Air Station Cape Cod improvements.".

SEC. 403. LONG-TERM LEASE AUTHORITY FOR AIDS TO NAVIGATION.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new section:

"§ 672. Long-term lease authority for navigation and communications systems sites

"(a) The Coast Guard, on behalf of the United States, is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for aids-to-navigation sites, vessel traffic service sensor sites, or National Distress System high level antenna sites. The lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. The lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

"(b) In procuring real property and interests therein under subsection (a) of this section, the Coast Guard may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(c)(1) The Coast Guard may enter into multiyear lease agreements under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of such a lease agreement will promote the efficiency of the aids-to-navigation program, vessel traffic service program, or National Distress System program and will result in reduced total costs under the agreement;

"(B) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

"(C) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new item:

"672. Long term lease authority for navigation and communications system sites.".

TITLE V—EDUCATIONAL RESEARCH

SEC. 501. AUTHORITY FOR EDUCATIONAL RESEARCH GRANTS.

(a) IN GENERAL.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 196. Participation in Federal, State, or other educational research grants

"Notwithstanding any other provision of law, the Coast Guard Academy may compete

for and accept Federal, State, or other educational research grants, except that no such award may be accepted for the acquisition or construction of facilities, or for the routine functions of the Academy.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 9 of title 14, United States Code, is amended by adding at the end the following new item:

"196. Participation in Federal, State, or other educational research grants.".

TITLE VI—PASSENGER VESSEL SAFETY

SEC. 601. SHORT TITLE.

This title may be cited as the "Passenger Vessel Safety Act of 1993".

SEC. 602. DEFINITION OF PASSENGER.

Section 2101(21) of title 46, United States Code, is amended to read as follows:

"(21) 'passenger'—

"(A) on a vessel, other than a vessel referred to in subclause (B), (C), or (D) of this clause, means an individual carried on the vessel except—

"(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

"(ii) the master; or

"(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

"(B) on an offshore supply vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel;

"(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii) or (A)(iii) of this clause;

"(ii) a managing operator;

"(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner; or

"(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; and

"(D) on a sailing school vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

"(iv) a sailing school instructor or sailing school student.".

SEC. 603. DEFINITION OF PASSENGER VESSEL.

Section 2101(22) of title 46, United States Code, is amended to read as follows:

"(22) passenger vessel' means a vessel of at least 100 gross tons—

"(A) that is carrying more than 12 passengers, including at least one passenger for hire;

"(B) that is chartered and carrying more than 12 passengers; or

"(C) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 604. DEFINITION OF SMALL PASSENGER VESSEL.

Section 2101(35) of title 46, United States Code, is amended to read as follows:

"(35) 'small passenger vessel' means a vessel of less than 100 gross tons—

"(A) that is carrying more than 6 passengers, including at least one passenger for hire;

"(B) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying more than 6 passengers;

"(C) that is chartered, with no crew provided or specified by the owner or the owner's representative, and carrying more than 12 passengers; or

"(D) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 605. DEFINITION OF UNINSPECTED PASSENGER VESSEL.

Section 2101(42) of title 46, United States Code, is amended to read as follows:

"(42) 'uninspected passenger vessel' means an uninspected vessel—

"(A) of at least 100 gross tons—

"(i) that is carrying not more than 12 passengers, including at least one passenger for hire; or

"(ii) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying not more than 12 passengers; or

"(B) of less than 100 gross tons—

"(i) that is carrying not more than 6 passengers, including at least one passenger for hire; or

"(ii) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying not more than 6 passengers.".

SEC. 606. DEFINITION OF PASSENGER FOR HIRE.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (21) the following new clause:

"(21a) 'passenger for hire' means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.".

SEC. 607. DEFINITION OF CONSIDERATION.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (5) the following new clause:

"(5a) 'consideration' means an economic benefit, inducement, right, or profit, including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage by monetary contribution or donation of fuel, food, beverage, or other supplies.".

SEC. 608. DEFINITION OF OFFSHORE SUPPLY VESSEL.

Section 2101(19) of title 46, United States Code, is amended by inserting "individuals in addition to the crew," immediately after "supplies," and by striking "and is not a small passenger vessel".

SEC. 609. DEFINITION OF SAILING SCHOOL VESSEL.

Section 2101(30)(B) of title 46, United States Code, is amended by striking "at least 6" and inserting in lieu thereof "more than 6".

SEC. 610. DEFINITION OF SUBMERSIBLE VESSEL.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (37) the following new clause:

"(37a) 'submersible vessel' means a vessel that is capable of operating below the surface of the water.".

SEC. 611. EXEMPTION AUTHORITY.

(a) Section 2113 of title 46, United States Code, is amended to read as follows:

"§ 2113. Authority to exempt certain vessels

"If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of certain vessels engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

"(1) for an excursion vessel, issue a special permit specifying the conditions of operation and equipment;

"(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify; and

"(3) establish different operating and equipment requirements for uninspected passenger vessels described in section 2101(42)(A) of this title.".

SEC. 612. EQUIPMENT AND STANDARDS FOR UNINSPECTED PASSENGER VESSELS.

Section 4105 of title 46, United States Code, is amended—

(1) by redesignating the existing text as subsection (a); and

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

"(b) Within 24 months after the date of enactment of this subsection, the Secretary shall, by regulation, require certain additional equipment (including liferafts or other lifesaving equipment), or establish construction standards or additional operating standards, for the uninspected passenger vessels described in section 2101(42)(A) of this title.".

SEC. 613. APPLICABILITY DATE FOR REVISED REGULATIONS.

(a) APPLICABILITY DATE FOR CERTAIN CHARTERED VESSELS.—Revised regulations governing small passenger vessels and passenger vessels, as the definitions of those terms in section 2101 of title 46, United States Code, are amended by this Act, shall not apply before May 1, 1994, to such vessels when chartered with no crew provided.

(b) EXTENSION OF PERIOD.—The Secretary of the department in which the Coast Guard is operating may extend for up to 1 additional year the period of inapplicability specified in subsection (a) if the owner of the vessel concerned demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the regulations by May 1, 1994.

Mr. KERRY. Mr. President, as the vice chairman of the Senate's National Ocean Policy Study, I am pleased to cosponsor legislation introduced today by the distinguished chairman of the Commerce Committee and chairman of the National Ocean Policy Study, Senator HOLLINGS, and Senator TED STEVENS, the ranking minority member of the National Ocean Policy Study, which authorizes funding for the Coast Guard for fiscal years 1994 and 1995. This 2-year authorization bill is based upon the administration's request and authorizes necessary Coast Guard operational expenses.

In addition, the provisions of the bill include conforming changes which allow vice admirals and the Commandant of the Coast Guard to temporarily retain their rank while being

processed for retirement, similar to the way other armed services' senior officers are treated now. The bill also permits volunteers to maintain, improve, and conduct research on natural and historic resources located on Coast Guard facilities. It allows the Coast Guard to obtain adequate family housing; provides for Air Station Cape Cod facility improvements; and provides authority for the Coast Guard Academy to apply for education grants. Also included in this bill is a passenger vessel safety provision which will improve the Coast Guard's ability to oversee its marine safety program and will be better ensure the safety of passengers aboard charter boats.

The Coast Guard is a vital asset to both my State of Massachusetts and to every State with navigable waters. All of us need to recognize the importance of and urgent need for the United States to focus on issues pertaining to our boundaries from the coast out to our 200-mile exclusive economic zone [EEZ]. We must pay attention to the bigger picture and recognize all of the programs the Coast Guard administers which affect us locally and nationally. More than two-thirds of the total Coast Guard budget funds activities to protect public safety and the marine environment, enforce laws and treaties, maintain aids to navigation, prevent illegal drug trafficking and alien migration, and preserve defense readiness. Clearly, it is our responsibility to ensure the Coast Guard has the resources to achieve its existing mandate and recognize the expanding role the Coast Guard is being asked to play in our navigable waters. I cannot overemphasize my concern about the potential negative effects on vital coastal and ocean activities should we fail to address adequately issues of marine safety, maritime law enforcement, aids to navigation, and environmental protection.

The National Ocean Policy Study held a hearing today on these issues which provided valuable information about the need for the programs addressed by this legislation and the Coast Guard's ability to comply with its legal mandates. In addition, I look forward to receiving comments on the provisions of the bill being introduced today, and continuing to work with the Coast Guard and all others who have interests and concerns about its provisions in order to achieve legislation which increases the Coast Guard's effectiveness and overall efficiency.

By Mr. FORD (for himself, Mrs. MURRAY, Mr. MATHEWS, Mr. STEVENS, Mr. KRUEGER, Mrs. FEINSTEIN, Mr. INOUYE, and Mr. BRYAN):

S. 1053. A bill to amend the Federal Aviation Act of 1958 to provide emergency relief to the U.S. airline industry by facilitating financing for investment in new aircraft and by encouraging the retirement of older, noisier, and less efficient aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AVIATION REVITALIZATION ACT OF 1993

Mr. FORD. Mr. President, January 7, 1993, when Secretary of Transportation Federico Peña came before the Commerce Committee for confirmation hearings, I first raised the issue of loan guarantees for the airline industry and expressed my intention to pursue legislation in this area.

Today, after many months of work, I believe we have a bill that addresses the concerns of the airlines, aircraft manufacturers, bankers, and aviation experts. And because representatives from each of these industries worked closely with my staff to craft this legislation, each of them has a stake in seeing it passed into law.

Joining me as cosponsors are Senator MURRAY, Senator STEVENS, Senator MATTHEWS, Senator KRUEGER, Senator BRYAN, Senator INOUYE, and Senator FEINSTEIN. Each of these Senators has an important segment of the airline industry in their State and is keenly aware of the troubles facing this industry.

As chairman of the Aviation Subcommittee I have found it frustrating to watch the slow self-destruction of an industry so important not only to this Nation's infrastructure, but to our national security.

And while it often seems that the airlines have signed a mutual suicide pact, there are numerous problems leading to the current state of the industry. The most troublesome aspect of the industry's financial losses, is the difficulty of obtaining capital to purchase much-needed new stage 3 aircraft.

My legislation cuts to the quick of this problem by providing Government loan guarantees for the airlines to purchase new aircraft.

Just this week, Moody's Investors Service annual report on the international airline industry indicated that credit relief for the airline industry is nowhere in sight. In fact, the airlines face a stressful credit environment for several more years.

The report suggests airline credit problems are a result of a change in passenger mix due to a sluggish economy, which has created a predatory fare competition and low yields. While this report encompasses the entire international aviation industry, nowhere is the credit crunch more detrimental than in the United States where airlines face a deadline for conversion to an all stage 3 fleet.

The program set forth in this legislation is patterned after the aircraft purchase program at the Export-Import Bank of the United States. It seems logical to me that if Government efforts are used to promote export aircraft to foreign air carriers, then consideration should be given to loan guarantees for the purchase of aircraft by domestic air carriers.

The Eximbank guarantee program has proven to be a successful model. Since 1957 more than 2,000 aircraft have been financed under this program with few defaults.

The costs of providing loan guarantees to the airlines will be financed by a subsidy fee on each of the airlines participating in the program. This legislation would provide an 85-percent Federal guarantee for certain loans to air carriers to purchase stage 3 aircraft without any cost to the Federal Government. The subsidy for the aircraft guarantees would be the estimated present value of future defaults. In exchange for the loan guarantee, the air carriers would pay a fee equal to the subsidy. Because air carriers will pay fees to cover the Federal cost of this program, the legislation would have no impact on the deficit.

I also wanted to point out to my colleagues that in developing this bill several side issues were raised. As many of you know, I was the author of the Airport Noise and Capacity Act of 1990. This act requires all large commercial aircraft to make the conversion to stage 3 noise certification levels by December 31, 1999. There are varying opinions on the cost of this conversation, but there is no arguing that compliance will be a huge burden to an industry already in difficult financial straights.

In that there is no capacity problem in the cargo industry the bill does not require the 2-for-1 replacement of stage 2 aircraft on cargo carriers. Cargo carriers must modify stage 2 aircraft but there is no requirement to remove stage 2 aircraft from service. I allowed cargo carriers to participate in this program, since these carriers usually fly during the night and early morning hours when it is clearly important to comply with noise abeyance provisions.

For air carriers now in total stage 3 compliance the 2-for-1 replacement requirement does not apply. Stage 3 air carriers are allowed to participate in the loan guarantee program to add stage 3 aircraft to their fleet.

The Federal Aviation Administration, Office of Environment and Energy recently issued a report mapping out the progress of airline compliance to stage 3 fleet. I am attaching two charts which indicate the fleet mix of the U.S. major carriers and the U.S. cargo carriers. While many carriers have exceeded the goals of the FAA in implementing the 1990 Noise Act, there are still quite a few stage 2 aircraft in the system that need to be replaced or converted.

By providing loan guarantees for the purchase of aircraft, not only will airport neighborhoods receive some noise relief, but there are also efficiencies to

be gained in fuel consumption and labor costs.

Perhaps one of the most interesting side issues in this legislation is the replacement of two stage 2 aircraft for every stage 3 aircraft purchased under this program. There have been a number of experts who have attributed the financial situation of the airlines to overcapacity. The 2-for-1 provision addresses this problem.

A number of individuals have raised the issue of the size of the aircraft which will be retired. In an effort to spread the benefits throughout the domestic airframe and engine manufacturing industry, the Secretary of Transportation will develop regulations on aircraft size and type.

Finally, Mr. President, the passage of this legislation will mean new jobs throughout the air carrier and manufacturing industry. Because the loan guarantee program will also be available for the purchase of aircraft components contracted separately from the airframe, including new engines and engine hush kits, job creation to meet increased demand will be a direct effect.

This provision was added for the benefit of smaller or more financially distressed airlines. These stage 3 modification guarantees enable operators and owners to convert their equipment to stage 3 for about one-tenth the price of purchasing new aircraft. Without this option many airlines and owners would be left with a fleet of moderately aged assets whose market value would become worthless in the next few years.

The current surplus of available aircraft will ensure the youngest and fittest aircraft candidates for hushkitting and reengining are the ones chosen under this program. Since the availability of the loan guarantee program is limited for new aircraft there will still be a need for hush kits and reengining to meet the stage 3 deadline.

Mr. President, the problems of the aviation industry are not simply being ignored. Earlier this week, the Commission To Ensure a Strong Competitive Airline Industry began their work to explore solutions to the ailing industry.

I am introducing this legislation with the hope the Commission will seriously consider this proposal as a method to get the airline industry financially viable again and meet the 1999 deadline. Several Wall Street analysts have already testified before the Commission about the need for this legislation and I am delighted at the apparent widespread support for this concept.

While I will not hold hearings on this legislation until the Commission has completed its work, I look forward to working with the chairman of this Commission, Governor Baliles, on this issue.

In conclusion, I believe I am offering a bold, new approach to bolstering the aviation industry. And while there are many areas of this legislation I'm sure will change, I'm confident it is an important starting point to construct the best possible program for all concerned.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 1053

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Revitalization Act of 1993".

SEC. 2. DECLARATION OF POLICY.

Congress finds and declares the following:

(1) The United States commercial airline industry is currently suffering severe financial distress.

(2) Sustained record losses and excessive debt burdens are causing air carriers to cancel new aircraft options and orders which, in turn, is threatening the economic viability of the United States aerospace manufacturing industry.

(3) Many air carriers are increasingly unable to obtain financing at reasonable interest rates for purchasing new equipment.

(4) The inability of many air carriers to acquire new, quieter, more fuel efficient Stage 3 aircraft may jeopardize the planned phaseout of noisier Stage 2 aircraft.

(5) A Federal loan guarantee program should, therefore, be established to support the financing of new aircraft, or new aircraft components, in a way that assures the phasing out of less fuel-efficient, noisier, and older aircraft at the same time.

SEC. 3. AUTHORIZATION TO GUARANTEE FINANCING OF NEW AIRCRAFT.

Title XI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1501 et seq.) is amended by adding at the end the following new section:

"SEC. 1119. FINANCING OF NEW AIRCRAFT.

"(a) AUTHORIZATION OF LOAN GUARANTEE PROGRAM.—The Secretary is authorized to guarantee loans for the financing of new aircraft, or new aircraft components, for use by air carriers that meet the terms and conditions set forth in subsection (b) and that agree to pay (directly if the carrier is the loan guarantee recipient, or indirectly if another person is loan guarantee recipient) subsidy fees assessed under subsection (e). Subject to subsection (b), such guarantees may be made with respect to—

"(1) loans to an air carrier that will use such new aircraft or such new aircraft components; or

"(2) loans to a person purchasing such new aircraft, or such new aircraft components, for lease to and use by an air carrier.

"(b) TERMS AND CONDITIONS.—A loan guarantee under this section shall be subject to the following terms and conditions:

"(1) The loan guarantee must lead to the delivery of new aircraft, or new aircraft components, to an air carrier certificated under part 121 of title 14, Code of Federal Regulations, and such delivery shall occur no later than December 31, 1999.

"(2) The loan guarantee must be made for the purpose of financing the acquisition of new aircraft, or new aircraft components, that comply with Stage 3 noise standards.

"(3) The loan guarantee shall only be available for the purchase of new aircraft, or new aircraft components, from companies that both—

"(A) publish independently audited financial disclosure information and financial results; and

"(B) also are domiciled in countries that comply with all major international agreements governing aerospace trade, including but not limited to the GATT Civil Aircraft Agreement, the GATT Subsidies Code, the United States-European Community bilateral aircraft agreement, the OECD Large Aircraft Sector Understanding and bilateral air services agreements with the United States.

"(4) In the case of any air carrier taking delivery of a new aircraft financed under this section which owns or operates either aging aircraft or Stage 2 aircraft, such air carrier as borrower or lessee must, except as provided in paragraph (5), agree that, after April 1, 1993, it did remove from service, or that no later than the 60th day after the aircraft being financed is placed on the air carrier's operations specifications under part 121 of title 14, Code of Federal Regulations, or December 31, 1999, whichever occurs first, it will remove from service—

"(A) sufficient aging aircraft or Stage 2 aircraft which, at maximum certified capacity, equal or exceed, in the aggregate and pursuant to rules promulgated by the Secretary, 200 percent of the number of seats (or in the case of all-cargo aircraft 200 percent of cargo capacity) of the new aircraft being financed; or

"(B) all of its remaining aging aircraft and Stage 2 aircraft,

whichever number of aircraft is less; except that in the event the maximum capacity of such aircraft removed from service exceeds the number of seats or cargo capacity required under this section, such excess seat or cargo capacity may be carried forward as a credit available to be added to the capacity of other aircraft removed from service for the purpose of complying with this section for subsequent loan guarantees.

"(5) When an air carrier described in paragraph (4) is taking delivery of only all-cargo aircraft, the carrier may, in lieu of removing Stage 2 all-cargo aircraft from service, modify on or after April 15, 1993, such Stage 2 aircraft in order to meet Stage 3 noise standards on the same number of such Stage 2 aircraft that otherwise would have had to be removed from service within the contiguous States of the United States under paragraph (4); except that such modified aircraft must remain configured for all-cargo service and shall not be converted to passenger-cargo combination service.

"(6) Each aircraft removed from service by an air carrier under paragraph (4) shall be taken off the registry of certificated aircraft by the Secretary and may not subsequently be registered in the United States; except that—

"(A) the Secretary may continue to keep an aircraft on the registry of certificated aircraft if such aircraft—

"(i) is not based in any of the several States of the United States and is engaged in common carriage entirely outside the several States; or

"(ii) is used solely outside the contiguous States of the United States; and

"(B) in a case where the aircraft removed from service is owned by a person not affiliated with such air carrier and was operated

by such air carrier under lease on or before April 1, 1993, the Secretary may continue to keep such aircraft on the registry of certificated aircraft if such owner brings such aircraft into compliance with Stage 3 noise standards prior to its lease or sale to another air carrier or lessor.

"(7) An air carrier which is to take delivery of a new aircraft, or new aircraft components, financed under this section must warrant that it did not after August 1, 1993, and will not on and after the date of enactment of this section, place in service any aging aircraft or Stage 2 aircraft to its fleet.

"(8) An air carrier's violation of the warranty under paragraph (7) shall constitute a revocation of all outstanding loan guarantees under this section that were made for the purpose of financing delivery of new aircraft, or new aircraft components, to such air carrier.

"(9) The Secretary may not grant a waiver, to any air carrier that takes delivery of a new aircraft, or new aircraft components, financed by a loan guarantee under this section, that would allow such air carrier to operate Stage 2 aircraft beyond December 31, 1999, in interstate air transportation.

"(10) At least 75 percent of any new aircraft, or new aircraft components, financed by a loan guarantee under this section shall be manufactured or produced in the United States.

"(c) REGULATIONS.—No later than 60 days after the date of enactment of this section, the Secretary shall promulgate regulations implementing the loan guarantee program authorized by this section.

"(d) FIDUCIARY DUTIES OF SECRETARY.—

"(1) IN GENERAL.—To implement this section, the Secretary—

"(A) shall apply reasonable and prudent fiduciary standards in determining whether to make any specific loan guarantee, and is authorized to take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of making loan guarantee under this section;

"(B) shall make loan guarantees on rates, terms, and conditions which, in the judgment of the Secretary, offer reasonable assurance of repayment;

"(C) may require that loans guaranteed under this section be secured by the new aircraft, or new aircraft components being financed, to provide sufficient collateral; and

"(D) may not guarantee a loan amount that is more than 85 percent of the manufacturer's price to the air carrier of the new aircraft, or new aircraft components, being financed.

"(2) SECURITY INTEREST.—If the Secretary requires collateral under paragraph (1)(C)—

"(A) such collateral, to the extent of the guaranteed loan and associated fees, shall be deemed to be subject to a purchase-money equipment security interest in the new aircraft or new aircraft components for purposes of section 1110 of title 11, United States Code; and

"(B) the Secretary may also authorize a security interest in such collateral, on an equal and pro rata basis or as may be otherwise agreed by the Secretary, for persons providing loans that are not guaranteed under this section but that finance any portion of the price of such new aircraft or new aircraft components.

"(e) ASSESSMENT OF FEES.—

"(1) IN GENERAL.—A loan guarantee under this section shall remain in effect only so long as the loan guarantee recipient pays the subsidy fee assessed under paragraph (2).

"(2) SUBSIDY FEE.—For each loan guarantee under this section, the Secretary shall assess and collect a subsidy fee from the loan guarantee recipient that is equal to the cost, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)), of such guarantee.

"(f) ANNUAL REPORT.—The Secretary shall, not later than March 1 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report that—

"(1) descries the progress of the loan guarantee program authorized by this section;

"(2) identifies any problems with such program; and

"(3) describes the loan guarantees made under this section, including the identity of the air carriers and other persons receiving loans to which such guarantees apply.

"(g) DEFINITIONS.—As used in this section, the following definitions apply:

"(1) AGING AIRCRAFT.—The term 'aging aircraft' means one or more airplanes that were placed into service more than 22 years prior to the date of enactment of this section.

"(2) NEW AIRCRAFT.—The term 'new aircraft' means one or more newly manufactured airplanes, including associated spare parts and engines included in the original purchase, that have not been previously registered or placed into service.

"(3) NEW AIRCRAFT COMPONENTS.—The term 'new aircraft components' means components or parts (or both), of an aircraft, that can be financed separately from the body or frame of the aircraft, including jet engines, Administrator-approved Stage 3 hush kits for jet engines, and avionics systems.

"(4) REMOVE FROM SERVICE.—The term 'remove from service' means to—

"(A) eliminate, permanently and irrevocably, aircraft from the fleet of an air carrier on or after April 15, 1993;

"(B) transfer aircraft to another air carrier, after April 1, 1993, but before the date of enactment of this section, for use in common carriage entirely outside the several States of the United States; or

"(C) remove aircraft permanently and entirely from use in common carriage in the United States.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(6) STAGE 2 AIRCRAFT.—The term 'Stage 2 aircraft' means one or more airplanes as defined by section 36.1(f)(4) of title 14, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(7) STAGE 3 AIRCRAFT.—The term 'Stage 3 aircraft' means one or more airplanes as defined by section 36.1(f)(6) of title 14, Code of Federal Regulations, as in effect on the date of enactment of this section.".

1992 PROGRESS REPORTS SUMMARY—U.S. CARGO, 4/28/93

Operator name	1992 Base level	1992 Number of stage 2	1992 Number of stage 3	1992 Total fleet	1991 Phase-out (percent)	1992 Phase-out (percent)	1991 Fleet mix phase-in (percent)	1992 Fleet mix (percent)
Airbone Express	65	52	16	68	9.0	80.0	10.0	23.5
Arrow Air	11	12	1	13	111.1	109.0	.....	7.7
Buffalo Airways	7	11	.....	11	157.1	157.1	.....	.....
Challenge Air Cargo	3	1	3	4	33.3	33.3	66.7	75.0
DHL Corp.	16	13	4	17	81.3	81.3	18.8	23.5
Emery Worldwide [1]	22	16	9	25	100.0	72.7	24.1	36.0
Evergreen Int'l	35	33	4	37	100.0	94.3	7.9	10.8
Federal Express	131	107	92	199	85.5	81.7	40.1	46.2
Southern Air Transp	14	4	19	23	28.6	28.6	83.3	82.6
United Parcel Service	47	48	94	142	100.0	102.1	64.4	66.2
Cargo Total	351	297	242	539	89.8	84.6	39.4	44.9

[1] Initial progress report under review per Emergy's request.

Source: Federal Aviation Administration, May 7, 1993.

1992 PROGRESS REPORTS SUMMARY—U.S. MAJORS, 4/28/93

Operator name	1992 Base level	1992 Number of stage 2	1992 Number of stage 3	1992 Total fleet	1991 Phase-out (percent)	1992 Phase-out (percent) [1]	1991 Fleet mix phase-in (percent)	1992 Fleet mix (percent) [2]
America West	30	23	65	88	96.7	76.7	69.1	73.9
American Airlines	175	142	530	672	92.0	81.1	74.1	78.9
Continental	199	152	161	313	100.0	76.4	48.6	51.4
Delta	224	210	344	554	106.7	93.8	55.5	62.1
Northwest	269	252	120	372	97.9	93.7	34.2	32.3
Southwest	49	49	92	141	100.0	100.0	60.1	65.2
TWA	122	111	71	182	95.9	91.0	40.6	39.0
United	239	193	341	534	89.5	80.8	55.9	63.9
USAir	203	188	247	435	100.0	92.6	57.8	56.8

1992 PROGRESS REPORTS SUMMARY—U.S. MAJORS, 4/28/93—Continued

Operator name	1992 Base level	1992 Number of stage 2	1992 Number of stage 3	1992 Total fleet	1991 Phase-out (percent)	1992 Phase-out (percent) [1]	1991 Fleet mix phase-in (percent)	1992 Fleet mix (percent) [2]
Majors Total	1,510	1,320	1,971	3,291	97.6	87.4	56.1	59.9

[1] Number of Stage 2 divided by base level. Must be 75 percent or below by 12/31/94 to comply under phase out option.
[2] Number of Stage 3 divided by total fleet. Must be 55 percent or more by 12/31/94 to comply under fleet mix option.

Source: Federal Aviation Administration, May 7, 1993.

Subsidizing or bailing out the industry is not our goal.

The costs incurred by the Department of Transportation in administering the loan guarantees created by this legislation will be borne by the domestic airline industry.

This bill does not provide for direct assistance—it establishes loan guarantees.

Those loan guarantees will translate into support for communities. Tennessee has two airline hubs; Northwest in Memphis and American Airlines in Nashville. These two airlines serve important transportation roles both in my State of Tennessee, and across the Nation. The importance of these airlines maintaining healthy operations cannot be overestimated.

We all realize that airports provide substantial support to local tax bases. I would venture to say that any Senator with major airline hubs in his or her State also recognizes the economic importance of keeping these operations up and running.

Of course, the Congress should not be in the habit of interfering with private enterprise. However, an industry which is so important to this Nation, deserves our support in remaining competitive and state-of-the-art. Additionally, we all recognize the need to support failing infrastructure.

The administration has called for the investment. Governors throughout the country have called for the investment. Mr. President, today we are answering that call.

Our airports and airlines are primary components of this Nation's transportation infrastructure. Beyond transporting passengers and goods, our domestic airlines support the needs of the country in times of emergency, providing disaster assistance or troop mobilization.

I have seen the demise of this country's rail industry in my own lifetime, all because of poor planning. We cannot now stand by and allow such a demise to occur in the airline industry, only to realize—too late—our lack of investment and planning after an emergency occurs.

Mr. President, we are all aware of the recent investment in US Air by British Airways. I believe this is symptomatic of the problems our domestic carriers are facing. Unable to keep up with costs, US Air sought outside investment in order to maintain its operations. While I do not seek to condemn this action, or US Air, for exploring outside financial support, I also do not believe that Members of this body want to lose the autonomy of our domestic airlines.

If my fellow Senators join me in that commitment, then I believe they should support this bill.

Mr. President, I believe it is the role of the Federal Government to provide for the needs of the American people. And a healthy transportation industry is one of these needs. Without this support, I fear the country may be in danger of losing more airlines. Allowing that to happen certainly would not be conducive to the economic growth and stability of our Nation. Nor would it serve the American people.

I am proud to be an original cosponsor of the Aviation Revitalization Act of 1993, an act that will serve to reinvigorate an essential transportation industry in this country.

I likewise encourage my colleagues to support this legislation.

Mr. MATHEWS. Mr. President, I am pleased to join Senator FORD today in introducing the Aviation Revitalization Act of 1993.

In this time, when the Senate's attention has been diverted by pseudo-emotional appeals, I believe this is the type of progressive action which Congress should be undertaking.

I hope that our colleagues will join us in supporting quick passage of this legislation. As my friend from Kentucky has noted, the financial burden facing the domestic airline industry has grown to significant proportions.

The Air Transportation Association of America reported that losses continued in 1992 for the third straight year, exceeding $4 billion for scheduled airlines.

Just this past Monday, the National Commission To Ensure a Strong Competitive Airline Industry was convened by President Clinton. The clock is ticking, so to speak, as the commission is charged with reporting back to the administration in 90 days.

I believe the loan guarantee program created by this legislation is exactly the type of action that commission is likely to recommend.

Mr. President, while deregulation was intended to increase competition and serve the consumer, the impact on the domestic airline industry has often been adverse instead of positive.

Last year, Robert Crandall, chief executive officer of American Airlines, testified before the Senate Subcommittee on Aviation about the problems faced by American and other airlines. One of the primary problems noted in that testimony, was the inability to keep up with growing costs—maintenance costs, fuel costs, and others.

The so-called fare wars, designed to benefit consumers and increase traffic, have actually caused additional difficulties for airlines in their efforts to keep a favorable balance between revenues and costs.

While I do not believe the Government should become entangled in the issue of airline regulation, we should seize every effort and opportunity to assist the industry in moving forward. For this is an industry vital to daily commerce, for both passenger and freight services, an industry contributing over $300 billion annually to the U.S. economy.

I believe this legislation is one of the answers to the burdens facing our airline industry. This legislation seeks to create loan guarantees directed specifically at purchases of new aircraft, which are quieter and more fuel efficient, to replace the currently aging and costly aircraft.

By Mr. GLENN (for himself, Mr. PELL, Mr. HELMS, and Mr. D'AMATO):

S. 1054. A bill to impose sanctions against any foreign person or U.S. person that assists a foreign country in acquiring a nuclear explosive device or unsafeguarded nuclear material, and for other purposes; to the Committee on Foreign Relations.

OMNIBUS NUCLEAR PROLIFERATION CONTROL ACT OF 1993

• Mr. GLENN. Mr. President, I introduce legislation designed to strengthen our national effort to prevent the global spread of nuclear weapons. The need for this legislation arises from three quarters. First, proliferation remains a profitmaking activity for all too many people and companies both here and around the world. Second, although the International Atomic Energy Agency is gradually responding to the many new challenges it is facing both from the global plutonium economy and from clandestine bomb programs, America must do more to encourage other nations to support and strengthen the agency as it grapples with these prob-

lems in the years ahead. Third, for too long, Congress and the American people have been in the dark about U.S. exports of commodities that can contribute to the ability of other countries to build nuclear explosive devices.

The legislation I am introducing today, the Omnibus Nuclear Proliferation Control Act of 1993—along with another bill that includes some additional measures to deal with these problems—is intended to address these three basic challenges.

BASIC POINTS

First, as I have said before on several occasions, we must do more to take the profits out of proliferation. Specifically, I propose to expand Presidential authority to impose sanctions against companies that engage in illicit sales of nuclear technology and to require new sanctions against countries that traffic specifically in bomb parts or critical bomb design information. The sanctions provisions—which include a ban on Government contracting with firms that materially and knowingly assist other nations to acquire the bomb, and additional severe penalties against nations that traffic in bomb parts or critical bomb design information—are identical to those found in the Omnibus Nuclear Proliferation Control Act of 1992, S. 1128, which passed the Senate by unanimous consent three times in 1992—on April 9, September 18, and October 8.

Second, I am proposing in a sense-of-the-Congress that the United States pursue some 27 reforms to strengthen the implementation of safeguards administered by the International Atomic Energy Agency [IAEA]. I introduced 21 of these reforms on October 17, 1991—see Senate Joint Resolution 216—and am as convinced as ever that this international agency needs the support and cooperation of all nations as it undergoes many reforms in the wake of the lessons of Iraq and the new challenges from growing commercial uses of bomb-usable nuclear materials.

Third, I am proposing a new sunshine provision in our export licensing process that will make public all nonproprietary data concerning U.S. exports of nuclear dual-use goods, nuclear components, and authorizations for exports of U.S. nuclear technology. The present system of nondisclosure has led, especially in the case of goods sent to Iraq, to a crisis in public confidence that America has its own export control house in order. The best way to restore that confidence and to ensure more effective oversight and accountability is to permit greater public scrutiny of the nonproprietary licensing data.

CONCLUSION

I will have more to say about the proposed legislation in the months ahead and look forward to working with the new administration in ensuring its early enactment. These reforms were supported last year by the Bush administration and are now long overdue.

I am pleased and honored to introduce this bill today with the original cosponsorship of the distinguished chairman of the Committee on Foreign Relations, my friend CLAIBORNE PELL, whose steadfast support of this proposed legislation last year was in large measure responsible for its passage not once, but three times, by unanimous consent of the Senate. I am also pleased to announce that the distinguished ranking member of the Committee on Foreign Relations, Senator HELMS, is also an original cosponsor of this bill. In addition, I am pleased to announce that the ranking member of the Banking Committee, Senator D'AMATO, has also agreed to cosponsor this bill—Senator D'AMATO was also an original cosponsor, along with Senators PELL and HELMS, among others of the nuclear sanctions bill I introduced in the last Congress (S. 1128) and I welcome his support and commitment to a strong nonproliferation policy.

Mr. President, I ask unanimous consent that Senators PELL, HELMS, and D'AMATO be designated as original cosponsors of the Omnibus Nuclear Proliferation Control Act of 1993.

I encourage all of my colleagues to join me in this effort to revitalize these key elements of our nonproliferation strategy. Early enactment of both the current bill and my companion bill—which incorporates export control reforms and measures to deal with threats from the global plutonium economy—will make the world a safer place for our country and for future generations.

I ask unanimous consent to insert into the RECORD a more detailed description of the specific sections of this bill.

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

OMNIBUS NUCLEAR PROLIFERATION CONTROL ACT OF 1993

A SECTION-BY-SECTION DESCRIPTION

Prepared by Committee on Governmental Affairs, May 27, 1993.

Section 1: Short Title.—The bill is entitled the "Omnibus Nuclear Proliferation Control Act of 1993."

Section 2: Table of Contents.—This section describes the contents of each of the three titles of the bill.

Section 3: Definitions.—This section contains definitions of 12 terms used in this bill. The term "nuclear explosive device" is defined explicitly for the first time in U.S. law. Nations can design nuclear weapons, or improve existing designs, by means of extremely small explosive tests using minute quantities of bomb material—Sweden, for example, reportedly performed such tests in the early 1970's. The definition incorporates terms used during the Eisenhower Administration to distinguish a nuclear from a nonnuclear explosion (for a discussion, see Robert N. Thorn and Donald R. Westervelt, "Hydronuclear Experiments," LA-10902-MS, Los Alamos: Los Alamos National Laboratory, February 1987). The definition is intended as a standard to guide the implementation of nuclear nonproliferation laws and policies and is not intended to foreclose any other definition that may be adopted in the course of the negotiation of any future international agreement limiting the testing of nuclear explosive devices, including a Comprehensive Test Ban Treaty.

The term "unsafeguarded special nuclear material" is defined to include plutonium and other special nuclear materials that are held either in violation of or otherwise outside of International Atomic Energy Agency (IAEA) safeguards; the definition excludes non-sensitive quantities that would qualify for export from the United States under general licensing authority. Material that is explicitly exempted from safeguards pursuant to a safeguards agreement with the IAEA is not included within this definition.

The term "direct-use material" is defined in accordance with current usage of the term by the IAEA (see IAEA Safeguards Glossary, IAEA/SF/INF/1 (Rev. 1), 1987 Edition, Vienna, Austria: IAEA).

TITLE I: REPORTING ON NUCLEAR EXPORTS

Sec. 101: Reports of the President.—Each year, sec. 601 of the Nuclear Nonproliferation Act (NNPA) requires the President to submit an unclassified report to Congress on developments with respect to the global spread of nuclear weapons. Sec. 101 of the current bill would expand this reporting requirement to include nonproprietary details from the export licensing process for nuclear dual-use items (as defined in sec. 3 of the bill), as well as U.S. exports of components of nuclear facilities and authorizations for the export of specific nuclear technology and services; the section also requires the reporting of instances when sanctions have been imposed. In the 102nd Congress, conferees to the bill to reauthorize the Export Administration Act agreed to the text of this reporting requirement, but the House did not approve the conference report. [The Senate approved this language on October 8, 1992, *Congressional Record*, p. S-17948 ff. Also see H.R. 3489, the "Omnibus Export Amendments Act of 1992," and H. Rept. 102-1025.]

TITLE II—SANCTIONS FOR NUCLEAR PROLIFERATION

Section 201: Imposition of Sanctions.

PURPOSE

This section broadens presidential authority to impose sanctions against foreign and domestic persons that the President determines have contributed to the global proliferation of nuclear weapons. Specifically, the sanctions seek to deter illicit exports from the United States or a foreign nation of goods or technology that would assist any individual, group, or non-nuclear-weapon state to acquire a nuclear explosive device or unsafeguarded special nuclear material.

The section establishes explicit presidential authority to ban U.S. government procurements from foreign or domestic firms that have "materially and with requisite knowledge" contributed to the proliferation of nuclear explosive devices or access to unsafeguarded bomb materials. The term "with requisite knowledge" derives from the use of the term "knowing," as defined in the Foreign Corrupt Practices Act of 1977, and "has reason to know," as that term has long been used in existing nuclear export control regulations.

RATIONALE

All Americans recognize that the acquisition by additional nations or groups of nu-

clear explosives or bomb material would jeopardize vital U.S. interests and world peace. Yet with respect to U.S. government purchases and U.S. imports of goods produced by firms that engage in proliferation-related exports, U.S. statutory sanctions are currently more punitive for missile and chemical and biological weapons proliferation than for illicit activities promoting the global spread of fission or hydrogen bombs.

P.L. 101-510, for example, authorizes the President to ban U.S. government contracts with, and U.S. imports of goods produced by, foreign firms that engage in illicit sales of sensitive missile technology; similar sanctions are now found in legislation (P.L. 102-138 and P.L. 102-182) concerning the proliferation of chemical and biological weapons. Current nuclear sanctions, by contrast, provide for penalties relating to denials of foreign aid and nuclear cooperation—but provide no equivalent statutory penalties for foreign firms that traffic in illicit nuclear weapon-related goods.

The sanctions, triggering procedures, scope of persons affected, foreign government consultations, report, exceptions, waivers, and terms for terminating sanctions used in this section were modeled after the sanctions provisions in previous legislation addressing missile, chemical, and biological weapons proliferation. Sec. 201(b) of the bill authorizes the President to delay the imposition of sanctions in order to permit consultation with foreign governments to halt the prohibited activity. Consistent with a colloquy between Senator Jake Garn and Senator John Glenn on October 8, 1992 (Congressional Record page S-17954), it is also the intention of this legislation that the President may temporarily delay the imposition of sanctions when such a delay is necessary to protect intelligence sources and methods, provided that the delay does not result in a significant risk of additional transfers of sanctionable goods or technology, and that the delay is not used to further any policy other than nonproliferation.

The case for the government procurement sanctions rests on cumulative revelations of the extent that foreign firms have been suppliers of secret nuclear weapons programs around the world. On March 22, 1989, for example, the Washington Post cited a raid by the West German government that discovered 70 German firms that had been active suppliers of Pakistan's nuclear program. In 1991, UN inspectors of Iraq's destroyed nuclear facilities discovered extensive reliance on foreign equipment and technology. Moreover, press accounts have identified a number of foreign commercial enterprises that did extensive business with both the U.S. government and the Iraqi defense establishment.

The denial of foreign aid and nuclear cooperation—once a powerful sanction—may well (with low levels of foreign aid and the continuing stagnation of the nuclear power industry) decline in value as a means to curb proliferation in the 1990's. The sanctions in this section therefore grant the President specific authority to deploy an additional powerful deterrent—the procurement ban—against illicit sales by firms that do extensive business with the federal government. Although import sanctions were originally intended to be included in this bill, they were withdrawn to permit the House to originate this particular sanction in accordance with House rules.

Because there are a variety of circumstances under which a person can "know" a certain fact—and because "material" does not require further definition in law—it is useful to clarify the legislative intent of the term "requisite knowledge" as used in this bill.

United States regulations have for many years (e.g., see 45 Federal Register 43143, June 25, 1980) required U.S. exporters to apply for a validated license prior to the export of goods or technology which the exporter "knows or has reason to know" will be used for purposes related to nuclear weapons or the production of special nuclear material. Under 10 C.F.R. 810, the Department of Energy uses this approach in authorizing U.S. persons to participate in the foreign production of nuclear materials. The Commerce Department has also issued regulations (15 C.F.R. 778.3) requiring exporters to apply for a validated license for technical data and commodities that the exporter "knows or has reason to know" will be used, directly or indirectly, in various nuclear-weapon-related activities.

The evolution of this standard derives from Congress' early concerns about the contributions that dual-use goods can make to a clandestine nuclear explosive program, concerns that have over the years been validated and reaffirmed as a result of the efforts of Pakistan, Iraq, and other nations to acquire such goods for illicit weapons purposes. These efforts, moreover, are continuing today in many nations.

In 1978, Congress established the original statutory basis for dual-use nuclear export controls in sec. 309(c) of the NNPA. Under that section, the President was directed to publish regulations regarding the control by the Department of Commerce over the export of dual-use goods with potential nuclear weapons applications; specifically, the law required controls over a broad category of goods that were described as follows: "*all* export items. . . which *could be, if used* for purposes other than those for which the export is intended, *of significance for* nuclear explosive purposes" (emphasis added). Regulations implementing this section are found in 15 C.F.R. 778.

On March 13, 1991, the Department of Commerce published a proposed rule (56 Federal Register 10765) that attempted to define the specific circumstances under which an exporter "knows" a specific good will be used in a chemical or biological weapons or missile facility. On August 15, 1991, however, the Department issued an interim rule relying instead upon "existing case law and judicial interpretation" for guidance on the definition of the term "know" (56 Federal Register 40495). In publishing this regulation, the Department stated that "the standard in the nuclear controls is not being changed at this time." (p. 40495)

The definition of "requisite knowledge" used in this bill is not intended to support any other knowledge standard used for chemical or biological weapon or missile proliferation controls or any other law. There are, however, many reasons for explicitly incorporating "reason to know" within the broad definition of "knowledge" in this nuclear sanctions bill.

First, Presidents and Congresses have for over 45 years designated the global spread of nuclear weapons as posing unique and potentially grave threats to the national security of the United States. Although the global spread of all weapons of mass destruction jeopardizes U.S. security, nuclear weapons remain to this day the only devices that can obliterate entire cities in an instant. Halting the proliferation of such weapons requires special attention under our law: the "reason to know" standard creates an additional incentive for exporters to familiarize themselves with their customers and the end uses of their products.

Second, the gravity of this threat requires that law enforcement officials have sufficient authority to prevent the export of goods or data from the United States which could help additional nations to acquire the bomb. By its references to the need to control the export of goods that "could be . . . of significance for" nuclear explosive purposes, sec. 309(c) of the NNPA clearly intended such controls to be broad. Similarly, the Nuclear Non-Proliferation Treaty (Article I) obligates the United States . . . not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

Although it is impossible to define in positive law all of the conceivable circumstances that would constitute "knowledge" of a specific nuclear weapon development, it is certain that a broad definition is required, given the unambiguously wide scope of America's domestic and international legal obligations not to promote nuclear proliferation.

Third, there is a considerable body of case law and judicial interpretation of the term "reason to know" which provides guidance as to the interpretation of that term. Statutes and regulations ranging from U.S. tort law, the uniform Commercial Code, the International Traffic in Arms Regulations, anti-boycott trade controls, regulations on exports of police or military equipment to South Africa, and even the Migratory Bird Act—all illustrate past judicial and regulatory experience in adjudicating and implementing the "reason to know" standard. A similar standard is found in the Export Administration Act, which requires (in sec. 11(b)(3)) severe penalties against any person who possesses any goods or technology ". . . knowing or having reason to believe" that such items would be exported in violation of sections 5 or 6 of that Act. As used in this bill, the definition of "reason to know" is intended to be fully consistent with the use of the term in 10 C.F.R. 810, 15 C.F.R. 778.3, and existing legal and regulatory precedents.

Subsection (d) of sec. 201 authorizes the Secretary of State to issue advisory opinions to any person seeking to inquire whether a specific activity would subject that person to sanctions under this legislation. It is the intent of this section that any exporter who engages in an activity that is fully consistent with the terms of an advisory opinion issued pursuant to this section should not be subject to sanctions under this legislation. Possession of an advisory opinion, however, does not constitute grounds for failing to comply with the terms of this Act (as, for example, in the case of fraudulent or deceptive requests for opinions). Receipt of an advisory opinion is not, therefore, a license to proliferate.

Sec. 202. Eligibility for Assistance.

PURPOSE

This section (a) amends the Arms Export Control Act to ensure that foreign recipients of U.S. arms exports are not in material breach of their nuclear nonproliferation treaty commitments; (b) amends the Foreign Assistance Act to authorize the President to waive for one year the prohibitions of Section 670(a)(1) concerning illicit transfers of nuclear reprocessing technology and illicit nuclear procurements in the United States; and (c) amends further the Foreign Assist-

ance Act by requiring Pakistan to satisfy the same nuclear standards in the Glenn/Symington amendment (sections 669 and 670 of the Foreign Assistance Act) that are required of all other non-nuclear-weapon states that receive U.S. foreign aid.

RATIONALE

(a) This section creates a strong disincentive for recipients of U.S. arms exports to promote nuclear proliferation, and a strong incentive for such recipients to live up to their nuclear nonproliferation treaty commitments. The section is prospective: it is not intended to punish activities that occurred before enactment of this section.

(b) Current law (Section 670(a)(2) of the Foreign Assistance Act) authorizes the President to waive of any penalties for illicit transfers of nuclear reprocessing technology and for illicit nuclear procurement attempts in the United States. There is no time limitation in the current law constraining how long such a waiver may be issued. The new language would authorize the President to issue a waiver in any specific fiscal year, upon making the certifications that are currently required under that section.

(c) Two of America's most important nuclear sanctions are found in sections 669 and 670 of the Foreign Assistance Act; 669 cuts off aid if a nation traffics in unsafeguarded uranium enrichment technology, while section 670 cuts off aid if a nation transfers or receives nuclear reprocessing technology or (among other activities) illicitly seeks nuclear technology in the U.S.

As originally enacted, sanctions under both sections can be waived by the President under specific circumstances identified in those sections. In 1981, however, President Reagan sought new waiver authority for Pakistan in order tc facilitate U.S. assistance to the Afghan rebels; this new authority was needed because Pakistan could not satisfy the requirements for the existing waiver authority in the Foreign Assistance Act. In short, although Pakistan was indeed engaging in illicit imports of unsafeguarded uranium enrichment technology, and given that Pakistan would not provide "reliable assurances" that it would not acquire the bomb, the Reagan Administration nevertheless wanted to continue aid in order to achieve the goal of expelling the Soviets from Afghanistan.

In 1981, Congress agreed to extend a temporary (six-year) waiver of the uranium enrichment sanctions called for in sec. 669. After this waiver authority expired in 1987, it was renewed for shorter periods of time; this waiver authority officially expires on September 30, 1993. In early 1982, President Reagan issued P.D. 82-7, which waived indefinitely the nuclear reprocessing sanctions required in Sec. 670. In early 1988, President Reagan issued P.D. 88-5 to waive sanctions against a specific attempt by Pakistan to acquire material that ". . .was to be used by Pakistan in the manufacture of a nuclear explosive device."

Thus, Congress has on 5 occasions granted special waiver authority for Pakistan under sec. 669; the President has issued 1 indefinite waiver of the reprocessing provision in sec. 670, and 1 waiver for penalties associated with an illicit effort by Pakistan to violate U.S. nuclear export control laws. Yet despite these special waivers and large-scale U.S. economic and military assistance throughout the 1980's, Pakistan's bomb program continued to move forward. On February 7, 1992, the Washington Post reported that the Parkistani foreign secretary, Shahryar Khan, had stated in an interview that Pakistan now possesses "elements which, if put together, would become a device."

The Soviet withdrawal from Afghanistan, coupled with alarming new developments in Pakistan's nuclear program in recent years (including continuing cooperation with China), now removes all justification for Pakistan's special waivers of nuclear sanctions under the Glenn/Symington amendment. The price of continuing these waivers is greater than any conceivable gain to U.S. nonproliferation objectives.

A new waiver of 669, for example, would under current law permit (assuming Pakistan could meet other nonproliferation conditions under sec. 620E-e) continuation of economic or military aid to Pakistan even if Pakistan later provides Libya or Iran with the complete plans for a uranium enrichment plant. If a waiver were in force for Sec. 670, Pakistan could transfer the plans for a plutonium separation plant to any other country and incur no foreign aid penalty under U.S. law. To reduce such risks, the new section would simply return Pakistan to treatment accorded to every other non-nuclear weapon nation under the Glenn/Symington amendment.

Sec. 203. Role of International Financial Institutions.

PURPOSE

This section requires U.S. directors in international financial institutions to oppose "any direct or indirect use" of institution funds that would assist non-nuclear-weapon nations to acquire nuclear explosive devices or unsafguarded special nuclear material. The section would also require U.S. directors "to consider" the nuclear nonproliferation credentials of the nation that would benefit from funding offered by such agencies.

RATIONALE

Multilateral funding agencies (World Bank, International Development Agency International Finance Corporation, regional development banks, etc.) each year provide billions of dollars for legitimate development projects throughout the world. The purposes of U.S. "development" assistance do not now include—and must never be permitted to include—aid in developing the bomb. By ensuring that no U.S. funds that have been provided to multilateral development agencies will be used either directly or indirectly to promote nuclear proliferation, this section would serve both U.S. national security and foreign policy interests.

This section follows several non-nuclear statutory precedents with respect to the voice and vote U.S. executive directors in such institutions. For example: (1) 22 U.S.C. 262d requires that U.S. directors, in connection with their voice and vote in such institutions, "shall advance the cause of human rights"; (2) in accordance with 22 U.S.C. 262g, U.S. representatives in such institutions "shall oppose any loan or other financial assistance" to promote any foreign exports of palm oil, sugar, or citrus crops if such exports would cause injury to U.S. producers; (3) in 22 U.S.C. 262h, the Secretary of treasury is required to instruct the U.S. directors "to use the voice and vote of the United States to oppose" any assistance that would promote the foreign production of any commodity or mineral whose export would cause substantial injury to U.S. producers; and (4) as required by 22 U.S.C. 262n-2, the Secretary of Treasury shall instruct the U.S. directors to use the "voice and vote" to oppose financing of projects that will produce exports in violation of the General Agreement on Tariffs and Trade.

Sec. 204. Amendment to the International Emergency Economic Powers Act.

PURPOSE

This section ensures that a wide range of options will be available to the President for purposes of imposing economic sanctions against companies that engage in activities that promote the international spread of nuclear explosive devices or unsafeguarded special nuclear material.

RATIONALE

This section specifically extends the grants of authorities provided to the President under sec. 203 of the International Emergency Economic Powers Act to deter firms from engaging in activities relating to the proliferation of nuclear explosive devices. The wide scope of the sanctioning powers under that section will both enhance the credibility of the sanctions and provide the President with some flexibility to apply penalties in specific circumstances when a U.S. government procurement ban would be either inappropriate or ineffective. Such powers would be essential, for example, in the event a company is promoting proliferation yet does not have any contracts with the federal government.

Sec. 205. Amendments to FDIC Improvement Act.

PURPOSE

This section expands the President's authority to apply sanctions against banks and financial institutions that knowingly promote nuclear proliferation.

RATIONALE

Based on evidence (e.g., testimony of David Kay of the International Atomic Energy Agency before the Senate Committee on Foreign Relations on October 17, 1991) that banks played significant roles in assisting Iraq to acquire illicit nuclear technologies, this section amends the Federal Deposit Insurance Corporation Improvement Act of 1991 to mandate a ban on dealings by banks and other financial institutions in U.S. government finance and other restrictions on the operation of such institutions in the United States, if the President determines that they have materially and with requisite knowledge assisted non-nuclear-weapon states to acquire unsafeguarded special nuclear material or nuclear explosive devices. The sanctions under this section contain waiver authority in the event any such sanction would "have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems."

Sec. 206. Export-Import Bank.

PURPOSE

Section 206 requires the Secretary of State to report to Congress and to the Board of Directors of the Ex-Im Bank if the Secretary determines that any country "has willfully aided or abetted" a non-nuclear-weapon state to acquire a nuclear explosive device or unsafeguarded special nuclear material. Ex-Im Bank credits would then be suspended, unless the President determines it is in the national interest to continue such credit.

RATIONALE

The Export-Import Bank Act already contains a report requirement along these lines, but the existing law only addresses circumstances in which nations violate IAEA safeguards or a U.S. agreement for nuclear cooperation. The new language expands the scope of the report to a wider range of activities relating to illicit nuclear assistance to other nations.

Sec. 207. Additional Amendments to the Foreign Assistance Act of 1961.

PURPOSE

Section 207 expands sanctions against nations that transfer a nuclear explosive device, design information of such a device, or any important component of a nuclear explosive device to a non-nuclear-weapon state.

RATIONALE

Under Section 670(b)(1) of the Foreign Assistance Act as currently worded, no foreign assistance may be given to any non-nuclear-weapon state that either receives or detonates a nuclear explosive device. The new language would extend this penalty to include receipt of essential bomb parts or bomb design information. Current law would only impose a penalty if a complete bomb were physically transferred to a non-nuclear-weapon state—yet if a recipient of U.S. aid gave Syria or Iran a bomb design, for example, or fabricated components of a bomb or bombs, there would be no explicit penalty under U.S. law. This section would strengthen sanctions to address just such situations.

As a result of an amendment adopted unanimously by the Foreign Relations Committee in last year's bill (S. 1128), the bill includes additional sanctions against countries that the President has determined have violated the prohibitions of Section 670(b)(1). The new sanctions include at a minimum: termination of foreign assistance, arms sales, U.S. government credits, arms sales financing, multilateral development bank assistance, bank loans, and U.S. exports (excluding only agricultural commodities and food). The section exempts from sanctions certain activities undertaken pursuant to Title V of the National Security Act (relating to congressional oversight of intelligence activities).

The intent of this section is to strengthen sanctions against, and thereby to deter, the proliferation of nuclear explosive devices and the most critical design information and components of such devices. Transfers to a non-nuclear-weapon state of design information of nuclear explosive devices or of any components determined by the President to be both known by the transferring country to be intended by the recipient state for use in any such a device, would be treated under U.S. law as though a device itself had been transferred; penalties for such transfers could only be waived in accordance with the limited waiver authority provided in sec. 207(c) of the bill.

Sec. 208. Reward.

PURPOSE

This section authorizes the Secretary of State to pay rewards for information relating to acts substantially contributing to the risk of illicit foreign acquisition of unsafeguarded nuclear material or a nuclear explosive device.

RATIONALE

Under Section 36 of the State Department Basic Authorities Act (P.L. 84-885), the Secretary of State already has authority to pay rewards for information relating to terrorist activities. On July 15, 1991, the State Department's Acting Coordinator for Counterterrorism testified before the Senate Committee on Governmental Affairs that the Department had found this reward authority to be ". . . unequivocally a successful program." As devastating as contemporary terrorism can be, a nuclear explosive can produce terror on a far greater scale—yet under current law, the Secretary of State is not statutorily authorized to pay rewards for information useful in halting nuclear proliferation. The new section would *require* no payments, it would only authorize the Secretary of State to issue such payments should they advance the goals of nuclear nonproliferation.

Sec. 209. Reports.

PURPOSE

Section 209 requires (a) that the ACDA annual report to Congress shall include a section on instances when other nations have failed to comply with their commitments to the United States with respect to nuclear nonproliferation; and (b) that Congress be kept fully and currently informed, in accordance with Executive reporting responsibilities under Section 602(c) of the Nuclear Non-Proliferation Act of 1978, about the status of diplomatic demarches issued on behalf of nuclear nonproliferation objectives.

RATIONALE

(a) Over the last decade, the United States received numerous high-level official commitments from nations around the world concerning their intentions with respect to the nonproliferation of nuclear weapons. Many of these commitments have been registered in treaty form (e.g., there are now over 150 parties to the Nuclear Non-Proliferation Treaty); but others have been provided in official but less formal arenas. Russia is already required to comply with its arms control commitments to the United States, by means of a reporting requirement created in the Defense Authorization Act of 1986 (Sec. 1002). Modeled on that reporting requirement, the new section seeks to underscore the expectation of the United States that nuclear commitments—especially those commitments deemed by the President to constitute a national obligation—must also be kept. The information required in this report concerns *non*compliance—the President is required to report such noncompliance to Congress and steps being taken to respond to such noncompliance.

(b) Diplomatic demarches (defined in the bill) are one of the principal means by which the day-to-day business of nonproliferation is conducted. Yet despite repeated public references to the frequency that the U.S. has issued such demarches, there has never been a systematic assessment of their effectiveness in advancing U.S. nuclear nonproliferation goals. There is some evidence that these demarches have often not proven to be terribly effective: one former U.S. defense official once termed these demarches, "demarche-mallows," while another former German export control official has been widely quoted in the press as saying that these demarches landed in his "waste-paper basket."

The bill states that it is the sense of Congress that developments relating to diplomatic demarches should be included in Executive briefings given the Committees on Foreign Relations and Governmental Affairs in the Senate, and the Committee on Foreign Affairs in the House, in accordance with the reporting responsibilities of sec. 602(c) of the Nuclear Non-Proliferation Act of 1978. In addition, the section also requires the reporting of the numbers of demarches that have been issued by or received by the United States on issues relating to the proliferation of nuclear explosive devices. The report on frequencies of demarches is limited to those that were specifically delivered or received by presidents, vice presidents, Cabinet-level officials, and ambassadors.

Sec. 210. Technical Correction.—Section 210 brings current law up to date with existing U.S. nuclear regulatory and legal standards for ensuring the physical protection of highly enriched uranium (HEU). Under international guidelines to which the U.S. subscribes (INFCIRC/225 and the Convention on Physical Protection of Nuclear Material) the control standard for HEU is 5 kilograms. The amendment is a minor technical change.

TITLE III—INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 301. Bilateral and Multilateral Initiatives.—This section is a Sense-of-the-Congress identifying 14 recommended measures to maintain and enhance international confidence in the effectiveness of the activities of the International Atomic Energy Agency (IAEA) and other multilateral efforts to halt the global spread of nuclear weapons.

Sec. 302. Reforms in IAEA Safeguards.—This section urges the President to pursue 13 measures specifically with respect to the implementation of IAEA safeguards. The measures seek to incorporate many lessons that the Agency has learned as a consequence of the implementation of safeguards activities in Iraq, North Korea, and at facilities that store or process bomb-usable nuclear materials.

Sec. 303. Reporting Requirement.—This section requires the President to report to Congress on the initiatives taken pursuant to the recommendations of sec. 301 and 302, and on the consequences of these initiatives.●

By Mr. GLENN (for himself, Mr. PELL, and Mr. D'AMATO):

S. 1055. A bill to amend the Nuclear Nonproliferation Act of 1978 and the Atomic Energy Act of 1954 to improve the organization and management of United States nuclear export controls, and for other purposes; to the Committee on Governmental Affairs.

NUCLEAR EXPORT REORGANIZATION ACT OF 1993

● Mr. GLENN. Mr. President, next year I will celebrate the 20th anniversary of my election to the U.S. Senate. I am proud that several of my legislative initiatives—including the Nuclear Nonproliferation Act [or NNPA] and the Glenn-Symington amendment to the Foreign Assistance Act—have established the basic framework for America's efforts to prevent the global spread of nuclear weapons.

ON PROLIFERATION AND LEADERSHIP

Although nuclear nonproliferation requires a collective international effort, I firmly believe that U.S. leadership goes a long way in explaining why there are not more nations with nuclear arsenals today. Unfortunately, the opposite is also true: When United States leadership has faltered, as it did in the case of Pakistan, American policy, or the lack of it, has only helped to make the problem worse. Yet despite such mistakes, I doubt many of the various weapons nonproliferation regimes in the world would exist today if it were not for U.S. leadership—and many of these regimes are maintained largely by means of U.S. monitoring and diplomatic resources. Although America's efforts have not always been successful, we have every reason as a Nation to be proud of this record.

I recall the storm of protest from abroad when the NNPA was enacted. Even some of our close European allies attacked the law's alleged unilateralism. After all, how dare the United States try to interfere with sovereign decisions of other nations: If some countries want to build the bomb, and others wish to help them, then what business is it of ours to interfere with this natural order of things? Even to this day, some observers are still saying that it is better for America to seek to manage the effects of proliferation, than to aim at preventing additional nations from acquiring the bomb or at rolling back existing bomb programs.

The priority found in U.S. law to preventing proliferation has had many positive effects abroad. It is worth recalling that several key features of the NNPA have now been adopted by virtually all the major nuclear suppliers as fundamental requirements for peaceful nuclear commerce. These include the requirements for full-scope international safeguards, for prior consent on future uses, including retransfers, of exported nuclear goods and technology, for controls over the physical security of such exports, and for controls that extend to dual-use goods with potential nuclear weapons applications.

And in April of last year, 27 nations—including virtually all of the world's key suppliers—agreed on export controls on over 60 nuclear dual-use items. This list, and the terms for approving exports of such items, have been used by the United States for years as a result of a requirement found in section 309(c) of the NNPA.

Thus despite the frequent claim that America is in decline, there is still a place for American leadership in the world today. And in the field of nuclear nonproliferation, American leadership has time after time led to the creation of global norms.

Today, more and more people recognize that once a country acts in ways that jeopardize the security of its neighbors or international security as a whole, the behavior of such a country can no longer be dismissed as purely an internal matter. It is equally true that no company has a free and unfettered right to engage in commercial activities of its choosing with complete disregard for the consequences of such activities for society. Even history's top advocates of laissez faire recognized the need for some limits on free trade: Adam Smith wrote over 200 years ago that "defence is more important than opulence," and the British economist and politician, Richard Cobden stressed a century ago, "No free trade in cutting throats."

In the past, most of our nuclear nonproliferation laws have focused on creating strong incentives and disincentives to encourage countries not to acquire, or to help others to acquire, the bomb. Today, these laws must not only to be strengthened, but supplemented with new laws directed not only at countries, but at companies and persons that place their private profits ahead of the collective good.

The business community here and abroad now stands at a crossroad: It can cooperate with governments and international organizations in finding the means to curtail illicit nuclear commerce, or it can seek to frustrate the pursuit of this goal, to the long-term detriment not only of business, but of world order itself. I call today on the business community to choose the path of constructive cooperation rather than destructive opposition to the goal of preventing nations from engaging or further perfecting the bomb. The global challenge ahead is awesome in scope and cooperation from the business community will be essential.

Today, I estimate that about 20 nations that have pursued the bomb, some more successfully than others. There are five countries that are declared nuclear weapon states, three countries that are de facto nuclear weapon states, at least nine countries that either have had or continue to have bomb programs in the basement, and three countries that separated from a nuclear weapon state but that still possess nuclear weapons. This record brings to mind President John Kennedy's famous warning back in 1963 that "15 or 20 or 25 nations may have these weapons" by the 1970's. President Kennedy could well have added to his list hundreds upon hundreds of companies around the world that have done their share to help these countries to acquire bomb-building capabilities.

We cannot afford to roll dice with history on this issue, we must take some new initiatives to prevent the nightmare predicted by President Kennedy from occurring in this or in some future decade.

ONE VITAL MISSION

Before America offers new responses to this global threat, we must clarify what it is we are seeking to accomplish—we should not, in other words, spin our wheels, or engage in what a philosopher once called "redoubling your effort when you have forgotten your aim," his definition of fanaticism. The long-term goal of my efforts has consistently been to prevent—not to manage or selectively encourage—the global spread of such weapons. Although the actions and inactions of various proliferators and defunct administrations have caused me to double and redouble my efforts over the years, I have never forgotten that the basic aim of our policy is prevention.

This goal is not new, but it does need to be reinforced. A few years before the Nuclear Nonproliferation Treaty [NPT] came into existence in 1968, President Johnson assembled a high-level review group under the chairmanship of Roswell Gilpatrick to determine whether nonproliferation should be a key goal of U.S. policy and whether the United States should support a treaty based on that goal. As the international community now prepares to review the future of the NPT, which is up for renewal in 1995, it is well to recall some of the findings of the Gilpatrick Report, which are as valid today as they were when they were issued in January 1965. Though still largely classified, the report concluded that:

> The spread of nuclear weapons poses an increasingly grave threat to the security of the United States. New nuclear capabilities, however primitive and regardless of whether they are held by nations currently friendly to the United States, will add complexity and instability to the deterrent balance . . ., aggravate suspicions and hostility among states neighboring new nuclear powers, place a wasteful economic burden on the aspirations of developing nations, impede the vital task of controlling and reducing weapons around the world, and eventually constitute direct military threats to the United States.

The report also noted that "Major defensive efforts might help substantially to diminish such limited threats, but millions of American lives would always be at risk."

CONTINUITY AND CHANGE

There is surely no silver bullet that will prevent nuclear weapons proliferation, nuclear terrorism, or nuclear war from occurring. But legislation that has helped to prevent or slow down the process of proliferation in the past now needs to be reinforced to meet new challenges that were not fully evident when such legislation was introduced years ago.

For example, as a combined result of the end of the cold war and the chronic decline of the civilian nuclear power industry, there are enormous pressures on specialized companies here and abroad to export sensitive nuclear technology and dual-use goods. These so-called supply-side pressures are eroding the restraints not just of our national legislation but of the entire global nuclear nonproliferation regime—a point that became obvious to all when U.N. inspectors reported what they found in Iraq's secret nuclear weapons facilities. To this day, Saddam refuses to divulge what may well be his most treasured secret: The identity of his foreign suppliers. Without their assistance, Saddam's military threat—maybe even Saddam himself—would not be around to jeopardize world security.

I have seen trade statistics indicating that America may well be the world's largest exporter of nuclear dual-use goods—these are civilian items that also have specific uses in designing or manufacturing the bomb. Over the years, we have sold billions of dollars of such goods to countries we have known are actively engaged in

clandestine bomb programs; indeed, some goods even went to specific facilities that are widely known to be engaged in illicit nuclear activities. Many of these goods were approved, moreover, without referral to the Departments of State or Defense, the Arms Control and Disarmament Agency, or the Nuclear Regulatory Commission.

Since sales of these goods have obviously not slowed or reversed these illicit nuclear programs, I can only conclude that the purposes served by approaching such sales were more likely related to producing profits or to cultivating political goodwill from the importing country, than to preventing nuclear proliferation. Yet if America cannot place security ahead of profits or politics, how can we possibly expect other nations to do so?

Many proponents of sales of nuclear dual-use goods would have us all believe that our balance of trade, even our whole economy, depends on sending Pakistan and other such countries krytrons, maraging steel, beryllium metal, supercomputers, isostatic presses, streak cameras, flash x ray equipment, and centrifuge components. Nothing, of course, is farther from the truth. Countries with clandestine bomb programs still constitute a minuscule proportion of the global marketplace for these and other nuclear-related commodities.

Yet when the survivors, if there are any, comb through the radioactive rubble left over from world war III, they will no doubt find abundant supplies of U.S. goods and technology in the world's most secret nuclear establishments. I am reminded of Pogo's comment years ago, "We have met the enemy and he is us."

Mr. President, in light of these new challenges we are facing, I rise today to introduce legislation designed to strengthen our national effort to prevent the global spread of nuclear weapons.

BASIC POINTS

In summary, the bill I am introducing today—the Nuclear Export Reorganization Act of 1993—launches a four-front attack on the problem. The approach combines sanctions, improvements in the international regime, export controls, and measures to face up to the challenge of the global plutonium economy.

First, as I have said before on several occasions, we must do more to take the profits out of proliferation. Specifically, I propose to expand presidential authority to impose sanctions against companies that engage in illicit sales of nuclear technology and to require new sanctions against countries that traffic specifically in bomb parts or critical bomb design information. The sanctions provisions—which include a ban on government contracting with firms the materially and knowingly assist other nations to acquire the bomb, and additional sever penalties against nations that traffic in bomb parts or critical bomb design information are identical to those found in the Omnibus Nuclear Proliferation Control Act of 1992 (S. 1128), which passed the Senate by unanimous consent three times in 1992—on April 9, September 18, and October 8.

Second, I am proposing in a sense-of-the-Congress that the United States pursue some 27 reforms to strengthen the operation of safeguards administered by the International Atomic Energy Agency [IAEA]. I introduced 21 of these reforms on October 17, 1991—see Senate Joint Resolution 216—and am as convinced as ever that this international agency needs the support and cooperation of all nations as it undergoes many reforms in the wake of the lessons of Iraq and the new challenges from growing commercial uses of bomb-usable nuclear materials.

The third front of attack is export controls. My proposal is designed to be responsive both to the legitimate needs of the exporting community for an efficient and effective licensing process and to the compelling interest of all citizens in protecting our national security.

In particular, the expert control reforms would accomplish the following:

First, it would vest authority to issue dual-use export licenses in the Commerce Department, while ensuring that key agencies with national security responsibilities have full rights to review license applications and to oppose approvals when they would be contrary to the country's nuclear nonproliferation interests.

Second, it would establish the interagency Subgroup on Nuclear Export Coordination—which has existed in regulatory form for about a decade—as a formal statutory entity within the National Security Council and would endow it with a clear structure and mission.

Third, it would ensure timely access by relevant agencies to export licensing data and expand information available to the public about dual-use nuclear exports.

Fourth, it would clarify in law the items for denying export licenses by adopting a standard that is now applied by 26 major nuclear supplier nations, not just the United States. And consistent with this multilateral standard, there are no loopholes or special country exemptions in the legislation I am introducing today.

Fifth, it would encourage the basic goal of developing in the United States a domestic industry capable of competing in international markets to sell energy technologies that do not contribute to nuclear weapons proliferation.

Sixth, it would establish a mechanism by which private U.S. industry can assist the Government in identifying foreign competitors that are engaging in illicit nuclear sales, and by so doing, assist in the implementation of appropriate sanctions.

Seventh, it would encourage private firms to adopt voluntary codes of conduct to regulate sales activities without active government intervention.

Eighth, it would upgrade the role of the Department of Defense in reviewing and approving proposed U.S. agreements for nuclear cooperation and proposed exports of U.S. nuclear technology.

Ninth, it would define in law for the first time in U.S. history a term that lies at the heart of all our nuclear nonproliferation efforts, namely, a "nuclear explosive device."

Tenth, it would establish in law specific deadlines on the processing of licenses to export dual-use nuclear items.

Eleventh, it would establish an export control bulletin to address the needs of exporters for more detailed information both about the evolution of U.S. nuclear regulations and the nature of the global threat of nuclear weapons proliferation.

Twelfth, it would provide a means by which potential exporters can obtain advisory opinions from the subgroup with respect to activities that may subject exporters to possible sanctions under existing nuclear export control laws.

The fourth and last front of attack offered in this bill concerns several findings and declarations by the Congress with respect to growing international commercial uses of plutonium, and a requirement for the President to review and modify, as appropriate, a 1981 policy that served to promote such uses. Every since 1981, America has been turning a blind eye toward the global proliferation and environmental risks from large-scale commercial uses of weapons-usable plutonium in Europe, Russia, and Japan. It is time for the policy to be reviewed and bought into line with the high priority our country is supposed to be giving to the goal of reducing the risks of nuclear weapons proliferation.

CONCLUSION

Bernard Baruch once said over 45 years ago that "we are here to make a choice between the quick and the dead." Today, I can say that we have several new choices to make, each one potentially affecting the future of this planet. We must choose between leadership and acquiescence, between quick profits and the defense of our national security interests, and between the rule of law and the law of the jungle. The security threat we must collectively address—both politically here at home and in partnership with other nations—is nuclear war. The eventual goal must be the eventual fulfillment of the U.N. Charter's disarmament objectives, but pending achievement of

that goal, we have an obligation to do all we can to prevent all forms of nuclear weapons proliferation, and—as in the recent cases of South Africa and Brazil—to work to roll back existing bomb programs wherever they may be.

Mr. President, I will have more to say about the proposed legislation in the months ahead and look forward to working with the new administration in ensuring its early enactment. These reforms are long overdue. I encourage my colleagues to join me in this effort to revitalize these key elements of our nonproliferation strategy. Mr. President, I ask unanimous consent to insert into the RECORD a more detailed description of the specific sections of this bill.

Mr. President, I ask unanimous consent to include the chairman of the Foreign Relations Committee as an original cosponsor of the Nuclear Proliferation Control Act of 1993. Largely because of his leadership and commitment to nonproliferation, the Senate passed the nuclear sanctions bill I introduced in the last Congress (S. 1128) on three occasions, each by unanimous consent. I welcome his continuing support for this legislation.

Finally, I am pleased to announce that my colleague from New York, Senator D'AMATO, who serves as the ranking member of the Banking Committee, has also agreed to cosponsor this bill. Senator D'AMATO was also an original cosponsor of the nuclear sanctions bill (S. 1128) I introduced in the last Congress. His support for the new legislation demonstrates not only his commitment to nonproliferation, but also shows his appreciation of the importance of bipartisan approaches to this issue. Mr. President, I ask unanimous consent to designate Senator D'AMATO as an original cosponsor of the Nuclear Proliferation Control Act of 1993.

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

NUCLEAR EXPORT REORGANIZATION ACT OF 1993

A SECTION-BY-SECTION DESCRIPTION

(Prepared by Committee on Governmental Affairs, May 27, 1993)

Section 1. Short Title.—The bill is entitled "Nuclear Export Reorganization Act of 1993."

Section 2: Table of Contents.—This section describes the contents of each of the six titles of the bill.

Section 3: Definitions.—This section contains definitions of 13 terms used in this bill. The term "nuclear explosive device" is defined explicitly for the first time in U.S. law. Nations can design nuclear weapons, or improve existing designs, by means of extremely small explosive tests using minute quantities of bomb material—Sweden, for example, reportedly performed such tests in the early 1970's. The definition incorporates terms used during the Eisenhower Administration to distinguish a nuclear from a nonnuclear explosion (for a discussion, see Robert N. Thorn and Donald R. Westervelt, "Hydronuclear Experiments," LA-10902-MS, Los Alamos: Los Alamos National Laboratory, February 1987). The definition is intended as a standard to guide the implementation of nuclear nonproliferation laws and policies and is not intended to foreclose any other definition that may be adopted in the course of the negotiation of any future international agreement limiting the testing of nuclear explosive devices, including a Comprehensive Test Ban Treaty.

The term "unsafeguarded special nuclear material" is defined to include plutonium and other special nuclear materials that are held either in violation of or otherwise outside of International Atomic Energy Agency (IAEA) safeguards; the definition excludes non-sensitive quantities that would qualify for export from the United States under general licensing authority. Material that is explicitly exempted from safeguards pursuant to a safeguards agreement with the IAEA is not included within this definition.

The term "direct-use material" is defined in accordance with current usage of the term by the IAEA (see IAEA Safeguards Glossary, IAEA/SF/INF/1 (Rev. 1), 1987 Edition, Vienna, Austria: IAEA).

Section 4: Findings and Policy.—On January 31, 1992, the United Nations Security Council released a statement following a meeting of Heads of State and Government which concluded that "The proliferation of all weapons of mass destruction constitutes a threat to international peace and security." [UN Security Council Document S/23500, January 31, 1992.] This statement echoes a congressional finding in sec. 2 of the Nuclear Non-Proliferation Act of 1978 (NNPA) that: * * * the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development.

Subsection (a) of the current bill builds upon these findings and identifies specific roles that are performed by export controls in addressing the threat of nuclear weapons proliferation. The section also confirms the need for further centralization of the licensing process for certain types of exports.

Subsection (b) states that it is the policy of the U.S. to restrict the export or reexport of goods that would be contrary to U.S. nuclear nonproliferation objectives. The subsection further affirms the need for strengthening sanctions against illicit nuclear suppliers and for clarifying the priority of U.S. national security considerations vis-a-vis commercial concerns in the process of licensing the export of goods and technology that can make atomic and hydrogen bombs. The subsection recognizes the need for the cooperation of other nations and the business community in the implementation of this law and the value of greater public access to information in the nuclear export licensing process.

TITLE I: AMENDMENTS TO THE NNPA

Sec. 101: Report. Each year, sec. 601 of the NNPA requires the President to submit an unclassified report to Congress on developments with respect to global spread of nuclear weapons. Sec. 101 of the current bill would expand this reporting requirement to include nonproprietary details from the export licensing process for nuclear dual-use items (as defined in sec. 3 of the bill), as well as U.S. exports of components of nuclear facilities and authorizations for the export of specific nuclear technology and services; the section also requires the reporting of instances when sanctions have been imposed. In the 102nd Congress, conferees to the bill to reauthorize the Export Administration Act agreed to the text of this reporting requirement, but the House did not approve the conference report. [The Senate approved this language on October 8, 1992, Congressional Record, p. S-17948 ff. Also see H.R. 3489, the "Omnibus Export Amendments Act of 1992," and H.Rept. 102-1025.]

Sec. 102: Creation of the Subgroup. Sec. 309(c) of the NNPA established a requirement for the President to publish procedures regarding control by the Department of Commerce over all export items "* * * which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes." The procedures were to provide for prior consultations, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission (NRC), the Department of Energy, and the Department of Defense.

On June 7, 1978 procedures were published (43 Federal Register 25326) in accordance with the provisions of sec. 309(c); these procedures were updated (49 Federal Register 20780) on May 16, 1984. These regulations established an Interagency "Subgroup on Nuclear Export Coordination" (Subgroup), subordinate in practice to the National Security Council, and made up of the agencies listed in sec. 309(c) of the NNPA. The Subgroup was given several responsibilities, including the review of licenses for the export of nuclear dual-use items (collectively known as the "Nuclear Referral List," in addition to certain other goods and data), when such licenses are referred to the Subgroup by the Departments of Commerce or Energy; Subgroup was also charged with providing its "advice and recommendations" to the Department of Commerce on these specific license applications. Virtually all of the items on the Nuclear Referral List were, on April 2, 1992, adopted by 26 other exporting nations in a Warsaw meeting of the Nuclear Suppliers Group and are, therefore, no longer under strictly unilateral U.S. export controls. [See International Atomic Energy Agency, Information Circular 254/Rev.1/Part 2, July 1992, hereinafter cited as the "Warsaw guidelines."]

Sec. 102(a) of the bill formally establishes the Subgroup as an entity within the National Security Council. This measure is consistent with the history of the Subgroup as a "subgroup" within the NSC. Moreover, the long-standing definition in U.S. law (see sec. 2 of the NNPA) of nuclear weapons proliferation as a "grave threat to the security interests of the United States" further supports the formal inclusion of the Subgroup within the NSC.

Sec. 102(b) amends the NNPA by establishing two new sections (sections 310 and 311) to structure the implementation of the nuclear dual-use export controls required by sec. 309(c) of that Act.

SUMMARY OF SECTIONS 310 AND 311

The new sec. 310 of the NNPA would establish in law: the composition and functions of the Subgroup; the scope of interagency and public access to export licensing information; and the requirement for the Chairman of the Subgroup to publish an "Export Control Bulletin" (described in further detail below) to inform exporters and the general public about the risks of proliferation and efforts to reduce or eliminate such risks.

Sec. 311 deals with the export licensing process and establishes: a list of controlled

nuclear dual-use items; the central administrative role of the Secretary of Commerce for processing all applications to export such items and for record keeping; a licensing denial standard adopted from the Warsaw guidelines of the Nuclear Suppliers Group; expanded review and denial authorities for members of the Subgroup; factors for Subgroup members to consider in reviewing license applications; the schedule for processing export licenses; authority for the President to establish an appeals procedure for license denials issued by the members of the Subgroup; and a procedure for companies to seek court relief from excessive delays in the licensing process.

DESCRIPTION OF LICENSING PROCEDURES

The bill retains the current agency composition of the Subgroup—the six agencies designated in sec. 309(c)—but adds a requirement that the individual members shall have "expertise in the control of exports and the non-proliferation of nuclear explosive devices" [sec. 310(a)]. The functions of the Subgroup [sec. 310(b)] are substantially the same as exist under current regulations, except that the Subgroup will under this legislation have expanded authority to make decisions on license applications and new authority to investigate claims by U.S. companies about illicit sales by foreign competitors, and to recommend sanctions, as appropriate and subject to presidential approval, against such activities.

A new sec. 310(c) of the NNPA will give each member of the Subgroup "full, timely, and equal access" to export licensing data for nuclear dual-use goods and will also permit the Subgroup members to obtain from the Department of Commerce other licensing data that are needed for nuclear nonproliferation purposes. This requirement is necessary in light of substantial, well-documented, and long-standing administrative problems in the interagency dissemination of data on export licenses with implications for nuclear weapons proliferation. See, for example: (a) House of Representatives, Committee on Ways and Means, "Administration and Enforcement of U.S. Export Control Programs," Hearings before the Subcommittee on Oversight, 102nd Congress, First Session, Serial 102–72, April 18 and May 1, 1991; (b) House of Representatives, Committee on Government Operations, "U.S. Government Controls on Sales to Iraq," Hearing before the Commerce, Consumer, and Monetary Affairs Subcommittee, 101st Congress, Second Session, September 27, 1990; and (c) House of Representatives, Committee on Government Operations, "Strengthening the Export Licensing System," 102nd Congress, First Session, H. Rept. 102–137, July 2, 1991.

In addition, certain categories of nonproprietary data would be made available to the public, excluding any proprietary data identifying names of license applicants or dollar values of specific exports.

Sec. 310(d) requires the Chairman of the Subgroup to establish an "Export Control Bulletin" for the purposes of informing the public and the exporting community about the risks of proliferation and efforts to reduce or eliminate such risks. Material to be included in this bulletin will assist both licensing authorities and the exporting community in establishing "reason to know" as this term is used in this legislation.

Although the contents of this bulletin will be determined by the Chairman, in consultation with the members of the Subgroup, the following types of subjects would be among those that would be appropriate to include in the bulletin: (a) notices of export control training seminars offered by agencies of the United States government; (b) notices of judicial or public enforcement actions taken in the United States and in other nations concerning illicit nuclear export; (c) national and multilateral policy declarations with respect to nuclear export controls; (d) descriptions of relevant activities and publications of international organizations; (e) questions and answers concerning the nuclear export licensing process; (f) notices of methods for reporting evidence of illicit nuclear export activities to export control enforcement authorities; (d) advice on approved methods for expediting the processing of license applications; (h) advisory notices of warning signs of potential illicit exports; (i) methods for resolving uncertainties over commodity classifications; (j) addresses and telephone numbers of relevant export control offices; (k) potential abuses of civilian commodities for nuclear explosive purposes; (l) advice on finding background information about foreign importers of nuclear dual-use goods; (m) companies, facilities, installations, or individuals that have been officially designated by other members of the Nuclear Suppliers Group to be unreliable destinations for goods covered by multilateral nuclear export controls; (n) documented case studies involving the diversion of exported goods and technologies for nuclear explosive purposes; and such additional information as the Chairman, in consultation with the Subgroup, may include to enhance the awareness of exporters of the risks of exporting nuclear dual-use goods.

Section 311(a) establishes three types of nuclear dual-use goods requiring special controls under sec. 309(c): specific items with nuclear dual-use applications (the "Nuclear Referral List" or N.R.L.); non-N.R.L. items that are controlled for national security purposes and that are intended for a nuclear-related end-use or end-user; and other goods that the exporter knows or has reason to know will be used directly or indirectly (a term defined in sec. 311(a)(3)(B)) in designated nuclear fuel cycle or nuclear explosive activities. This language closely parallels the same standards used in 15 C.F.R. 778 with respect to the export of such items. The "knowledge" standard is further discussed in the commentary on sec. 401 below. Consistent with the requirements of sec. 309(c), a new sec. 311(b) designates the Secretary of Commerce as responsible for processing all nuclear dual-use license applications and for record keeping.

Sec. 311(c)(1) identifies two fundamental standards that must be met before a nuclear dual-use good can be approved for export. The Subgroup shall review each license to determine if approval would: (1) be contrary to the objective of averting the proliferation of nuclear explosive devices; or (2) pose an unacceptable risk of diversion to a nuclear explosive activity or to an unsafeguarded nuclear fuel cycle. These denial standards have been multilaterally adopted by the members of the Nuclear Suppliers Group under the Warsaw guidelines.

Sec. 311(c)(2) prohibits the Secretary of Commerce from approving any specific license of any nuclear dual-use item if the Subgroup cannot agree that the item has fully satisfied the standards of subsection (c)(1). Sec. 311(c)(3) places into law the "factors to consider" that are currently used by Subgroup agencies pursuant to 15 C.F.R. 778.4 for reviewing exports of nuclear dual-use items destined to non-nuclear-weapon states. The Warsaw guidelines also include the commitment of 26 other countries to apply these factors in reviewing their own license applications.

Sec. 311(d) contains processing deadlines for the Subgroup and procedures for companies to seek judicial relief from excessive delays in the processing of license applications; these criteria are identical to those currently in use by the Subgroup (see 56 *Federal Register* 6701). The section also authorizes any member of the Subgroup to appeal the denial of a license to the President, in accordance with such regulations as the President prescribes to carry out the objectives of this legislation.

Sec. 103. Non-Nuclear Energy Resources.—This section places the Congress on record as supporting the goal of developing a domestic industry in the United States capable of competing on international markets for the sale of energy technologies consistent with the goals of sec. 501(a) of the NNPA (concerning the development of non-nuclear energy resources in developing countries). This section also requires the President to review all federally funded research and development consistent with the goals of sec. 501(a) of the NNPA and to report to Congress the findings of this review with respect to the adequacy of those R&D efforts.

TITLE II—INITIATIVES TO STRENGTHEN COMPLIANCE

Sec. 201.—Although U.S. export controls over dual-use nuclear items are now being coordinated with 26 other nations pursuant to the Warsaw guidelines, U.S. exporters will still be at a commercial disadvantage if their foreign competitors engage in illicit nuclear sales despite these multilateral guidelines. One way to respond to such sales is simply to eliminate U.S. controls so that competition can occur on what some call a "level playing field." Such an approach would amount to a policy of "competition in proliferation," however, and would be totally inconsistent with U.S. domestic and international legal obligations with respect to nuclear nonproliferation.

Instead, sec. 201 establishes a procedure by which any U.S. exporter of a nuclear dual-use item who believes a foreign competitor is engaging in illicit sales—such as sales in violation of the Warsaw guidelines—can bring evidence to the Subgroup and petition for an investigation; if the Subgroup undertakes such an investigation, it may recommend sanctions be imposed against the firm that is engaging in such illicit sales. Sanctions will be imposed against such any such firm with the approval of the President.

Sec. 202.—Subsection (a) directs the Subgroup to prepare guidelines for the adoption of voluntary "codes of conduct" by companies that export nuclear dual-use items. This provision follows recommendations that have been made by segments of the business community to encourage exporters to know their customers and to adopt company guidelines to ensure that exports will not contribute to the proliferation of nuclear explosive devices.

Subsection (b) requires the Subgroup to undertake a review of the circumstances under which nuclear dual-use items could be exported by means other than specific validated export licenses, without jeopardizing nonproliferation objectives. Subsection (c) enables the Subgroup to issue advisory opinions on whether specific export activities would subject the exporter to sanctions under existing legislation. Possession of an advisory opinion, however, does not constitute grounds for failing to comply with the terms of this Act (as, for example, in the case of fraudulent or deceptive requests for

opinions). Receipt of an advisory opinion is not, therefore, a license to proliferate. Subsections (d) and (e) are intended to encourage the adoption by the Subgroup of measures to expedite the licensing process.

TITLE III—AMENDMENTS TO THE ATOMIC ENERGY ACT

Sec. 301.—Under this section, the Department of Defense is given the same review and concurrence authorities as the Department of State with respect to authorizations by the Department of Energy for "subsequent arrangements," which set forth the terms and conditions for foreign uses of U.S. nuclear goods and technology after they are exported from the United States. In addition, this section requires that Congress will be informed of the technical basis for the satisfaction of the standard of "timely warning" found in sec. 131 of the Atomic Energy Act.

Sec. 302.—Under this section, the Department of Defense is given the same concurrence authorities as the Department of Energy with respect to approvals of proposed agreements for nuclear cooperation. The sole authority of the Department of State to negotiate such agreements is preserved. This section was added in light of well-documented difficulties that were experienced by the Department of Defense over the last decade in participating in reviews of proposed agreements for nuclear cooperation, in particular with Japan. [See Senate, Committee on Governmental Affairs, "Nonproliferation and U.S. National Security," Hearings 100th Congress, First Session, S. Hrg. 100–88, February 24–25 and March 5, 1987.]

Sec. 303.—Under this section, the Department of Defense is given the same review and concurrence authorities as the Department of State with respect to authorizations for U.S. citizens to work in other countries in activities relating to the production of special nuclear material.

Sec. 304.—This section expands the terms for halting nuclear cooperation under sec. 129 of the Atomic Energy Act to include violations of the Nuclear Export Reorganization Act.

Sec. 305.—Under this section, the Department of Defense is given the same review and concurrence authorities as the Department of State with respect to exports of components of nuclear facilities, as licensed pursuant to sec. 109b. of the Atomic Energy Act.

TITLE IV—SANCTIONS FOR NUCLEAR PROLIFERATION

Section 401: Imposition of Sanctions.

PURPOSE

This section broadens presidential authority to impose sanctions against foreign and domestic persons that the President determines have contributed to the global proliferation of nuclear weapons. Specifically, the sanctions seek to deter illicit exports from the United States or a foreign nation of goods or technology that would assist any individual, group, or non-nuclear-weapon state to acquire a nuclear explosive device or unsafeguarded special nuclear material.

The section establishes explicit presidential authority to ban U.S. government procurements from foreign or domestic firms that have "materially and with requisite knowledge" contributed to the proliferation of nuclear explosive devices or access to unsafeguarded bomb materials. The term "with requisite knowledge" derives from the use of the term "knowing," as defined in the Foreign Corrupt Practices Act of 1977, and "has reason to know," as that term has long been used in existing nuclear export control regulations.

RATIONALE

All Americans recognize that the acquisition by additional nations or groups of nuclear explosives or bomb material would jeopardize vital U.S. interests and world peace. Yet with respect to U.S. government purchases and U.S. imports of goods produced by firms that engage in proliferation-related exports, U.S. statutory sanctions are currently more punitive for missile and chemical biological weapons proliferation than for illicit activities promoting the global spread of fission or hydrogen bombs.

P.L. 101–510, for example, authorizes the President (inter alia) to ban U.S. government contracts with, and U.S. imports of goods produced by, foreign firms that engage in illicit sales of sensitive missile technology; similar sanctions are now found in legislation (P.L. 102–138 and P.L. 102–182) concerning the proliferation of chemical and biological weapons. Current nuclear sanctions, by contrast, provide for penalties relating to denials of foreign aid and nuclear cooperation—but provide no equivalent statutory penalties for foreign firms that traffic in illicit nuclear weapon-related goods.

The sanctions, triggering procedures, scope of persons affected, foreign government consultations, report, exceptions, waivers, and terms for terminating sanctions used in this section were modeled after the sanctions provisions in previous legislation addressing missile, chemical, and biological weapons proliferation. Sec. 401(b) of the bill authorizes the President to delay the imposition of sanctions in order to permit consultations with foreign governments to halt the prohibited activity. Consistent with a colloquy between Senator Jake Garn and Senator John Glenn on October 8, 1992 (Congressional Record, page S–17954), it is the intention of this legislation that the President may also temporarily delay the imposition of sanctions when such a delay is necessary to protect intelligence sources and methods, provided that the delay does not result in a significant risk of additional transfers of sanctionable goods or technology, and that the delay is not used to further any policy other than nonproliferation.

The case for the government procurement sanctions rests on cumulative revelations of the extent that foreign firms have been suppliers of secret nuclear weapons programs around the world. On March 22, 1989, for example, the Washington Post cited a raid by the West German government that discovered 70 German firms that had been active suppliers of Pakistan's nuclear program. In 1991, UN inspectors of Iraq's destroyed nuclear facilities discovered extensive reliance on foreign equipment and technology. Moreover, press accounts have identified a number of foreign commercial enterprises that did extensive business with both the U.S. government and the Iraqi defense establishment.

The denial of foreign aid and nuclear cooperation—once a powerful sanction—may well (with low levels of foreign aid and the continuing stagnation of the nuclear power industry) decline in value as a means to curb proliferation in the 1990's. The sanctions in this section therefore grant the President specific authority to deploy an additional powerful deterrent—the procurement ban—against illicit sales by firms that do extensive business with the federal government. Although import sanctions were originally intended to be included in this bill, they were withdrawn to permit the House to originate this particular sanction in accordance with House rules.

Because there are a variety of circumstances under which a person can "know" a certain fact—and because "material" does not require further definition in law—it is useful to clarify the legislative intent of the term "requisite knowledge" as used in this bill.

United States regulations have for many years (e.g., see 45 Federal Register 43143, June 25, 1980) required U.S. exporters to apply for a validated license prior to the export of goods or technology which the exporter "knows or has reason to know" will be used for purposes related to nuclear weapons or the production of special nuclear material. Under 10 C.F.R. 810, the Department of Energy uses this approach in authorizing U.S. persons to participate in the foreign production of nuclear materials. The Commerce Department has also issued regulations (15 C.F.R. 778.3) requiring exporters to apply for a validated license for technical data and commodities that the exporter "knows or has reason to know" will be used, directly or indirectly, in various nuclear-weapon-related activities.

The evolution of this standard derives from Congress's early concerns about the contributions that dual-use goods can make to a clandestine nuclear weapons program, concerns that have over the years been reaffirmed as a result of the efforts of Pakistan, Iraq, and other nations to acquire such goods for illicit weapons purposes. These efforts, moreover, are continuing today.

In 1978, Congress established the original statutory basis for dual-use nuclear export controls in sec. 309(c) of the NNPA. Under that section, the President was directed to publish regulations regarding the control by the Department of Commerce over the export of dual-use goods with potential nuclear weapons applications; specifically, the law required controls over a broad category of goods that were described as follows: "*all* export items . . . which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes" (emphasis added). Regulations implementing this section are found in 15 C.F.R. 778.

On March 13, 1991, the Department of Commerce published a proposed rule (56 Federal Register 10765) that attempted to define the specific circumstances under which an exporter "knows" a specific good will be used in a chemical or biological weapons or missile facility. On August 15, 1991, however, the Department issued an interim rule relying instead upon "existing case law and judicial interpretation" for guidance on the definition of the term "know" (56 Federal Register 40495). In publishing this regulation, the Department stated that "the standard in the nuclear controls is not being changed at this time." (p. 40495)

The definition of "requisite knowledge" used in this bill is not intended to supplant any other knowledge standard used for chemical or biological weapon or missile proliferation controls or any other law. There are, however, many reasons for explicitly incorporating "reason to know" within the broad definition of "knowledge" in this nuclear sanctions bill.

First, Presidents and Congresses have for over 45 years designated the global spread of nuclear weapons as posing unique and potentially grave threats to the national security of the United States. Although the global spread of all weapons of mass destruction jeopardizes U.S. security, nuclear weapons remain to this day the only devices that can obliterate entire cities in an instant. Halting

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the proliferation of such weapons requires special attention under our law: the "reason to know" standard creates an additional incentive for exporters to familiarize themselves with their customers and the end uses of their products.

Second, the gravity of this threat requires that law enforcement officials have sufficient authority to prevent the export of goods or data from the United States which could help additional nations to acquire the bomb. By its references to the need to control the export of goods that "could be * * * of significance for" nuclear explosive purposes, sec. 309(c) of the NNPA clearly intended such controls to be broad. Similarly, the Nuclear Non-Proliferation Treaty (Article I) obligates the United States: * * * not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

Although it is impossible to define in positive law all of the conceivable circumstances that would constitute "knowledge" of a specific nuclear weapon development, it is certain that a broad definition is required, given the unambiguously wide scope of America's domestic and international legal obligations not to promote nuclear proliferation.

Third, there is a considerable body of case law and judicial interpretation of the term "reason to know" which provides guidance as to the interpretation of that term. Statutes and regulations ranging from U.S. tort law, the Uniform Commercial Code, the International Traffic in Arms Regulations, anti-boycott trade controls, regulations on exports of police or military equipment to South Africa, and even the Migratory Bird Act—all illustrate past judicial and regulatory experience in adjudicating and implementing the "reason to know" standard. A similar standard is found in the Export Administration Act, which requires (in sec. 11 (b)(3)) severe penalties against any person who possesses any goods or technology "* * * knowing or having reason to believe" that such items would be exported in violation of sections 5 or 6 of that Act. As used in this bill, the definition of "reason to know" is intended to be fully consistent with the use of the term in 10 C.F.R. 810, 15 C.F.R. 778.3, and existing legal and regulatory precedents.

Subsection (d) of sec. 401 authorizes the Secretary of State to issue advisory opinions to any person seeking to inquire whether a specific activity would subject that person to sanctions under this legislation. It is the intent of this section that any exporter who engages in an activity that is fully consistent with the terms of an advisory opinion issued pursuant to this section, should not be subject to sanctions under this legislation. Possession of an advisory opinion, however, does not constitute grounds for failing to comply with the terms of this Act (as, for example, in the case of fraudulent or deceptive requests for opinions). Receipt of an advisory opinion is not, therefore, a license to proliferate.

Sec. 402. Eligibility for Assistance.

PURPOSE

This section (a) amends the Arms Export Control Act to ensure that foreign recipients of U.S. arms exports are not in material breach of their nuclear nonproliferation treaty commitments; (b) amends the Foreign Assistance Act to authorize the President to waive for one year the prohibitions of Section 670(a)(1) concerning illicit transfers of nuclear reprocessing technology and illicit nuclear procurements in the United States; and (c) amends further the Foreign Assistance Act by requiring Pakistan to satisfy the same nuclear standards in the Glenn/Symington amendment (sections 669 and 670 of the Foreign Assistance Act) that are required of all other non-nuclear-weapon states that receive U.S. foreign aid.

RATIONALE

(a) This section creates a strong disincentive for recipients of U.S. arms exports to promote nuclear proliferation, and a strong incentive for such recipients to live up to their nuclear nonproliferation treaty commitments. The section is prospective: it is not intended to punish activities that occurred before enactment of this section.

(b) Current law (Section 670(a)(2) of the Foreign Assistance Act) authorizes the President to waive of any penalties for illicit transfers of nuclear reprocessing technology and for illicit nuclear procurement attempts in the United States. There is no time limitation in the current law constraining how long such a waiver may be issued. The new language would authorize the President to issue a waiver in any specific fiscal year, upon making the certifications that are currently required under that section.

(c) Two of America's most important nuclear sanctions are found in sections 669 and 670 of the Foreign Assistance Act; 669 cuts off aid if a nation traffics in unsafeguarded uranium enrichment technology, while section 670 cuts off aid if a nation transfers or receives nuclear reprocessing technology or (among other activities) illicitly seeks nuclear technology in the U.S.

As originally enacted, sanctions under both sections can be waived by the President under specific circumstances identified in those sections. In 1981, however, President Reagan sought new waiver authority for Pakistan in order to facilitate U.S. assistance to the Afghan rebels; this new authority was needed because Pakistan could not satisfy the requirements for the existing waiver authority in the Foreign Assistance Act. In short, although Pakistan was indeed engaging in illicit imports of unsafeguarded uranium enrichment technology, and given that Pakistan would not provide "reliable assurances" that it would not acquire the bomb, America nevertheless wanted to continue aid in order to achieve the goal of expelling the Soviets from Afghanistan.

In 1981, Congress agreed to extend a temporary (6 year) waiver of the uranium enrichment sanctions called for in sec. 669. After this waiver authority expired in 1987, it was renewed for shorter periods of time; this waiver authority officially expires on September 30, 1993. In early 1982, President Reagan issued P.D. 82-7, which waived indefinitely the nuclear reprocessing sanctions required in Sec. 670. In early 1988, President Reagan issued P.D. 88-5 to waive sanctions against a specific attempt by Pakistan to acquire material that ". . . was to be used by Pakistan in the manufacture of a nuclear explosive device."

Thus, Congress has on 5 occasions granted special waiver authority for Pakistan under sec. 669; the President has issued 1 indefinite waiver of the reprocessing provision in sec. 670, and 1 waiver for penalties associated with an illicit effort by Pakistan to violate U.S. nuclear export control laws. Yet despite these special waivers and large-scale U.S. economic and military assistance throughout the 1980's, Pakistan's bomb program continued to move forward. On February 7, 1992, the Washington Post reported that the Pakistani foreign secretary, Shahryar Khan, had stated in an interview that Pakistan now possesses "elements which, if put together, would become a device."

The Soviet withdrawal from Afghanistan, coupled with alarming new developments in Pakistan's nuclear program in recent years (including continuing cooperation with China), calls for an end to Pakistan's special waivers of nuclear sanctions under the Glenn/Symington amendment. The price of continuing these waivers is greater than any conceivable gain to U.S. nonproliferation objectives.

A new waiver of 669, for example, would under current law permit (assuming Pakistan could meet other nonproliferation conditions under sec. 620E–e) continuation of economic or military aid to Pakistan even if Pakistan later provides Libya or Iran with the complete plans for a uranium enrichment plant. If a waiver were in force for Sec. 670, Pakistan could transfer the plans for a plutonium separation plant to any other country and incur no foreign aid penalty under U.S. law. To reduce such risks, the new section would simply return Pakistan to treatment accorded to every other non-nuclear-weapon nation under the Glenn/Symington amendment.

Sec. 403. Role of International Financial Institutions.

PURPOSE

This section requires U.S. directors in international financial institutions to oppose "any direct or indirect use" of institution funds that would assist non-nuclear-weapon nations to acquire nuclear explosive devices or unsafeguarded special nuclear material. The section would also require U.S. directors "to consider" the nuclear nonproliferation credentials of the nation that would benefit from funding offered by such agencies.

RATIONALE

Multilateral funding agencies (World Bank, International Development Agency, International Finance Corporation, regional development banks, etc.) each year provide billions of dollars for legitimate development projects throughout the world. The purposes of U.S. "development" assistance do not now include—and must never be permitted to include—aid in developing the bomb. By ensuring that no U.S. funds that have been provided to multilateral development agencies will be used either directly or indirectly to promote nuclear proliferation, this section would serve both U.S. national security and foreign policy interests.

This section follows several non-nuclear statutory precedents with respect to the voice and vote of U.S. executive directors in such institutions. For example: (1) 22 U.S.C. 262d requires that U.S. directors, in connection with their voice and vote in such institutions, "shall advance the cause of human rights"; (2) in accordance with 22 U.S.C. 262g, U.S. representatives in such institutions "shall oppose any loan or other financial assistance" to promote any foreign exports of palm oil, sugar, or citrus crops if such exports would cause injury to U.S. producers; (3) in 22 U.S.C. 262h, the Secretary of Treasury is required to instruct the U.S. directors "to use the voice and vote of the United States to oppose" any assistance that would promote the foreign production of any commodity or mineral whose export would cause substantial injury to U.S. producers; and (4) as required by 22 U.S.C. 262n-2, the Secretary of Treasury shall instruct the U.S. directors

to use the "voice and vote" to oppose financing of projects that will produce exports in violation of the General Agreement on Tariffs and Trade.

Sec. 404. Amendment to the International Emergency Economic Powers Act.

PURPOSE

This section ensures that a wide range of options will be available to the President for purposes of imposing economic sanctions against companies that engage in activities that promote the international spread of nuclear explosive devices or unsafeguarded special nuclear material.

RATIONALE

This section specifically extends the grants of authorities provided to the President under sec. 203 of the International Emergency Economic Powers Act to deter firms from engaging in activities relating to the proliferation of nuclear explosive devices. The wide scope of the sanctioning powers under that section will both enhance the credibility of the sanctions and provide the President with some flexibility to apply penalties in specific circumstances when a U.S. government procurement ban would be either inappropriate or ineffective. Such powers would be essential, for example, in the event a company is promoting proliferation yet does not have any contracts with the federal government.

Sec. 405. Amendments to FDIC Improvement Act.

PURPOSE

This section expands the President's authority to apply sanctions against banks and financial institutions that knowingly promote nuclear proliferation.

RATIONALE

Based on evidence (e.g., testimony of David Kay of the International Atomic Energy Agency before the Senate Committee on Foreign Relations on October 17, 1991) that banks played significant roles in assisting Iraq to acquire illicit nuclear technologies, this section amends the Federal Deposit Insurance Corporation Improvement Act of 1991 to mandate a ban on dealings by banks and other financial institutions in U.S. government finance and other restrictions on the operation of such institutions in the United States, if the President determines that they have materially and with requisite knowledge assisted non-nuclear-weapon states to acquire unsafeguarded special nuclear material or nuclear explosive devices. The sanctions under this section contain waiver authority in the event any such sanction would "have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems."

Sec. 406. Export-Import Bank.

PURPOSE

Section 406 requires the Secretary of State to report to Congress and to the Board of Directors of the Ex-Im Bank if the Secretary determines that any country "has willfully aided or abetted" a non-nuclear-weapon state to acquire explosive device or unsafeguarded special nuclear material. Ex-Im Bank credits would then be suspended, unless the President determines it is in the national interest to continue such credit.

RATIONALE

The Export-Import Bank Act already contains a report requirement along these lines, but the existing law only addresses circumstances in which nations violate IAEA safeguards or a U.S. agreement for nuclear cooperation. The new language expands the scope of the report to a wider range of activities relating to illicit nuclear assistance to other nations.

Sec. 407. Additional Amendments to the Foreign Assistance Act of 1961.

PURPOSE

Section 407 expands sanctions against nations that transfer a nuclear explosive device, design information of such a device, or any important component of a nuclear explosive device to a non-nuclear-weapon state.

RATIONALE

Under Section 670(b)(1) of the Foreign Assistance Act as currently worded, no foreign assistance may be given to any non-nuclear-weapon state that either receives or detonates a nuclear explosive device. The new language would extend this penalty to include receipt of essential bomb parts or bomb design information. Current law would only impose a penalty if a complete bomb were physically transferred to a non-nuclear-weapon state—yet if a recipient of U.S. aid gave Syria or Iraq a bomb design, for example, or fabricated components of a bomb or bombs, there would be no explicit penalty under U.S. law. This section would strengthen sanctions to address just such situations.

As a result of an amendment adopted unanimously by the Foreign Relations Committee in last year's bill (S. 1128), the bill includes additional sanctions against countries that the President has determined have violated the prohibitions of Section 670(b)(1). The new sanctions include at a minimum: termination of foreign assistance, arms sales, U.S. government credits, arms sales financing, multilateral development bank assistance, bank loans, and U.S. exports (excluding only agricultural commodities and food). The section exempts from sanctions certain activities undertaken pursuant to Title V of the National Security Act (relating to congressional oversight of intelligence activities).

The intent of this section is to strengthen sanctions against, and thereby to deter, the proliferation of nuclear explosive devices and the most critical design information and components of such devices. Transfers to a non-nuclear-weapon state of design information of nuclear explosive devices or of any components determined by the President to be both known by the transferring country to be intended by the recipient state for use in any such a device, would be treated under U.S. law as though a device itself had been transferred; penalties for such transfers could only be waived in accordance with the limited waiver authority provided in sec. 407(c) of the bill.

Sec. 408. Reward.

PURPOSE

This section authorizes the Secretary of State to pay rewards for information relating to acts substantially contributing to the risk of illicit foreign acquisition of unsafeguarded nuclear material or a nuclear explosive device.

RATIONALE

Under Section 36 of the State Department Basic Authorities Act (P.L. 84-885), the Secretary of State already has authority to pay rewards for information relating to terrorist activities. On July 15, 1991, the State Department's Acting Coordinator for Counterterrorism testified before the Senate Committee on Governmental Affairs that the Department had found this reward authority to be ". . . unequivocally a successful program." As devastating as contemporary terrorism can be, a nuclear explosive can produce terror on a far greater scale—yet under current law, the Secretary of State is not statutorily authorized to pay rewards for information useful in halting nuclear proliferation. The new section would require no payments, it would only authorize the Secretary of State to issue such payments should they advance the goals of nuclear nonproliferation.

Sec. 409. Reports.

PURPOSE

Section 409 requires (a) that the ACDA annual report to Congress shall include a section on instances when other nations have failed to comply with their commitments to the United States with respect to nuclear nonproliferation; and (b) that Congress be kept fully and currently informed, in accordance with Executive reporting responsibilities under Section 602(c) of the Nuclear Non-Proliferation Act of 1978, about the status of diplomatic demarches issued on behalf of nuclear nonproliferation objectives.

RATIONALE

(a) Over the last decade, the United States received numerous high-level official commitments from nations around the world concerning their intentions with respect to the nonproliferation of nuclear weapons. Many of these commitments have been registered in treaty form (e.g., there are now over 150 parties to the Nuclear Non-Proliferation Treaty); but others have been provided in official but less formal arenas. Russia is already required to comply with its arms control commitments to the United States, by means of a reporting requirement created in the Defense Authorization Act of 1986 (Sec. 1002). Modeled on that reporting requirement, the new section seeks to underscore the expectation of the United States that nuclear commitments—especially those commitments deemed by the President to constitute a national obligation—must also be kept. The information required in this report concerns noncompliance—the President is required to report such noncompliance to Congress and steps being taken to respond to such noncompliance.

(b) Diplomatic demarches (defined in the bill) are one of the principal means by which the day-to-day business of nonproliferation is conducted. Yet despite repeated public references to the frequency that the U.S. has issued such demarches, there has never been a systematic assessment of their effectiveness in advancing U.S. nuclear nonproliferation goals. There is some evidence that these demarches have often not proven to be terribly effective: one former U.S. defense official once termed these demarches, "demarche-mallows," while another former German export control official has been widely quoted in the press as saying that these demarches landed in his "waste-paper basket." The bill states that it is the sense of Congress that developments relating to diplomatic demarches should be included in Executive briefings given to the Committees on Foreign Relations and Governmental Affairs in the Senate, and the Committee on Foreign Affairs in the House, in accordance with the reporting responsibilities of sec. 602(c) of the Nuclear Non-Proliferation Act of 1978.

Sec. 410. Technical Correction.—Section 410 brings current law up to date with existing U.S. nuclear regulatory and legal standards for ensuring the physical protection of highly enriched uranium (HEU). Under international guidelines to which the U.S. subscribes (INFCIRC/225) and the Convention on Physical Protection of Nuclear Material) the

control standard for HEU is 5 kilograms. The amendment is a minor technical change.

TITLE V—INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 501. Bilateral and Multilateral Initiatives.—This section is a Sense-of-the-Congress identifying 14 recommended measures to maintain and enhance international confidence in the effectiveness of the activities of the International Atomic Energy Agency (IAEA) and other multilateral efforts to halt the global spread of nuclear weapons.

Sec. 502. Reforms in IAEA Safeguards.—This section urges the President to pursue 13 measures specifically with respect to the implementation of IAEA safeguards. The measures seek to incorporate many lessons that the Agency has learned as a consequences of the implementation of safeguards activities in Iraq, North Korea, and at facilities that make large-scale commercial uses of bomb-usable nuclear materials.

Sec. 503. Reporting Requirement.—This section requires the President to report to Congress on the initiatives taken pursuant to the recommendations of sec. 501 and 502, and on the consequences of these initiatives.

TITLE VI—REVIEW OF PLUTONIUM USE POLICY

Sec. 601. Findings and Declarations.—This section contains 13 congressional findings with respect to the alarming rise in international commercial uses of bomb-usable nuclear material, much of which is of U.S. origin or subject to U.S. consent rights.

Sec. 602. Report.—This section requires the President to reexamine a 1981 U.S. policy with respect to foreign uses of U.S.-controlled plutonium, to modify that policy as appropriate, and to report to Congress on the results of the review of U.S. policy.•

By Mrs. FEINSTEIN (for herself, Mr. LIEBERMAN, Mr. THURMOND, Mr. HOLLINGS, and Mrs. BOXER):

S. 1056. A bill to require that defense reinvestment and economic growth funds be allocated among communities on the basis of the relative levels of reductions in employment experienced in such communities as a result of reduced spending for national defense functions; to the Committee on Governmental Affairs.

DEFENSE

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to target defense conversion funds to areas of greatest need. I am joined in this effort by Senators LIEBERMAN, THURMOND, HOLLINGS, and my own colleague and friend from California, Senator BOXER.

Mr. President, I am very concerned. I applaud the President for his presentation of a program of defense conversion totaling about $20 billion. But, Mr. President, in real life, all of this money can go to areas of this Nation that do not have the need that is precipitated and developed by the enormous downsizing of defense and by base closures.

I believe that this Senate ought to take that into consideration because the purpose of defense conversion money is to be able to transition employees who lose their jobs from defense industry into peacetime commercial industry and to target dollars to enable defense-related companies to transition into peaceful commercial types of technological manufacturing.

I agree with that. Why shouldn't the United States of America lead the world in the manufacture of the hardware and software connected with transportation? Why shouldn't we make the magnetic levitation vehicles, the bullet trains, and the hybrid cars of the future? Indeed, I think we should.

Mr. President, under the present circumstances, thought, there is no guarantee that these funds are going to be able to aid people who are moving out of defense and want to go into peaceful commercial manufacturing, both in defense downsizing as well as in base closures.

Mr. President, I want to speak just for a moment to a little bit of each. With respect to base closures, as soon as a base is scheduled for closure, businesses put up the for sale signs, the real estate prices drop, and the banks stop lending. This uncertainty dampens confidence necessary to move this economy out of recession into economic productivity.

Let me give you an example in California. In Alameda County in northern California, the Alameda Naval Air Station is the largest single employer in the country. The average worker is in his or her early forties, has worked there for more than a decade, with an average salary of $38,000 a year. More than half are minorities. they generally tend to be married, they own their own homes, and they have children in schools.

The closure of this base without substitute employment condemns these workers to either lower wages or long unemployment lines.

Alameda Naval Air Station is just 1 of 12 bases in California considered for closure. This is on top of the 17 bases already slated for closure or closed. So it is a lose-lose situation.

If Alameda Naval Air Station closes, it is estimated that the school district alone loses 20 percent of its enrollment—20 percent.

Base closures are not just bad for those who leave. They are bad for those who stay. Property values decline, communities are disrupted, lives are shattered.

The defense conversion program can help remedy that, stabilize the community, help workers, and reduce the pain.

Defense downsizing. In Santa Ana, CA, more than 70,000 jobs have been lost in the last 5 years just due to defense downsizing. Of the 10,000 small businesses, in Santa Ana, 75 percent are involved in the aerospace industry. This is truly a defense-dependent community. The businesses are trying to convert to peacetime uses, but it is not easy. Conversion funds to help businesses move into commercial and dual use product lines would provide enormous opportunities. They would not only benefit Santa Ana and Alameda, but California and the Nation as whole.

Let me share a story with you. A former campaign staff member and her family have been devastated by the impact of defense downsizing in southern California. Her stepfather and mother built a home together in the San Fernando Valley where they had expected to retire. He has been a machinist for the same defense contractor for 18 years. As a consequence of defense downsizing, he sees people all around him losing their jobs, and his hours have been cut dramatically. They could not afford to live in their house. They have had to sell it. They have moved to an outlying area. Today, he commutes 3 hours to work and back for a part-time job because it is better than no job at all.

The mother has developed cancer. Now her stepfather must worry about keeping his health insurance as well as his job. So this has been an emotionally wrenching time. And this family is not alone. It is happening all across this Nation. It is one of the true life stories in America about the end of the cold war.

Mr. President, for this program of defense conversion to be effective, I believe the funds must be targeted.

If a child cuts her knee, you would not place a bandage on her elbow. The same is true for defense conversion. Target it effectively, and the funds can bring hope, jobs, and transition where they are needed.

More than 250,000 jobs have been lost in my State alone due to defense downsizing in the past 2 years. This is one-half of all of the jobs that the President's stimulus program would have provided to the entire Nation.

By 1998, the job loss in California is expected to reach 650,000 from defense downsizing and base closures. California is not the only State to suffer. The State of the Presiding Officer, Florida, and Connecticut, Massachusetts, South Carolina, Texas, and many, many others, are undergoing this difficult adjustment.

The legislation I am introducing today, along with the Senators I have named, would require defense conversion funds to be allocated fairly and efficiently. This legislation would require the Cabinet secretary or agency head responsible for implementing the President's various defense conversion programs to develop and apply a formula to allocate defense conversion funds, based on the employment impact of defense downsizing or base closures and realignments.

I am very pleased to have these Senators join in this legislation. I am hopeful that there will be others as well.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

Again, I thank the Senator from Oklahoma and the Senator from Minnesota for yielding.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1056

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

SECTION 1. ALLOCATION OF DEFENSE CONVERSION FUNDS ON THE BASIS OF JOB LOSSES.

(a) ALLOCATION REQUIREMENT.—(1) Notwithstanding any other provision of law, funds available for providing assistance under a program referred to in subsection (b) to or in communities adversely affected by conditions described in paragraph (2) shall be allocated among such communities on the basis of the relative levels of reductions in employment experienced in such communities as a result of such conditions. On that basis, communities experiencing higher levels of such reductions in employment than are experienced by other communities shall be allocated a commensurately higher level of funding than is allocated to such other communities.

(2) The conditions referred to in paragraph (1) are as follows:

(A) A significant reduction in Federal spending levels for national defense functions.

(B) A significant reduction in the size of the Armed Forces of the United States.

(C) A base closure or realignment by the Department of Defense.

(b) PROGRAMS COVERED.—This section applies to each Federal program providing any of the following assistance:

(1) Job training assistance or other employment adjustment assistance.

(2) Economic planning, development, or conversion assistance.

(3) Assistance for developing and applying new technologies for nondefense commercial purposes.

(c) ALLOCATION RESPONSIBILITIES.—The head of the department or agency of the Federal Government responsible for the administration of a program described in subsection (b) shall develop for, and apply in, the administration of such program an allocation formula that meets the requirements of this section.

By Mr. JEFFORDS:

S. 1057. A bill to provide for the establishment of a nationwide, universal access health coverage program, and for other purposes; to the Committee on Finance.

THE MEDICORE HEALTH ACT

Mr. JEFFORDS. Mr. President, today the administration and Congress are moving toward a reform of the American system of health care that is likely to be as sweeping and historic as the Social Security revolution of the 1930's. The deliberations and planning are producing the seeds of vast change. I know we all hope that in the near future, every citizen of this country will be guaranteed access to some basic package of health care benefits. It is an idea whose time has come and, as Franklin Delano Roosevelt put it some 60 years ago, "The country needs and, unless I mistake its temper, the country demands bold, persistent experimentation."

Around us we see the symptoms of a health care system greatly in need of reform. Rapidly, care is becoming unaffordable for the Nation and an increasing number of its citizens. While we have the finest technology in the world, we have some of the industrialized world's worst health care indicators.

Nationally, we spend almost $2,600 a year per capita on health care. As this chart indicates, we spend 1.5 times more than Canada, 1.7 times more than West Germany, and 2.6 times more than Britain. The impact of this spending on the Federal deficit is ever increasing. This year we are expected to spend $912 billion in health care, about $310 billion of which is Federal money. CBO projections indicate that if we keep today's health care system in place, by the year 2000 Federal expenditures will be about $600 billion. The longer we take to rein in the costs of health care, the greater an effect it will have on the deficit. And, the costs to small business, which today bear the brunt of increasing health care expenses, are large enough that they pose a threat to their well-being and even their very existence.

The time for change is upon us. Daily I receive calls and letters from constituents asking me for help; I see the toll it takes on families as they struggle to keep ahead of the mounting costs. Certainly today these demands for change have not been lost on Congress. Virtually every Member of the House and the Senate has ideas about how to solve this national crisis. The administration's task force, under the leadership of Mrs. Clinton, is moving toward its own comprehensive plan for reform.

Standing here today I look for consensus in the goals and premises which shape our efforts and characterize our proposals. In an effort to bring forth a bill which will satisfy the many conflicting policy and political demands, I have worked hard for the past 3 years in the development of a bill which can help us reach that consensus. I am reintroducing a bill very similar to the one I introduced last year.

The MediCORE proposal which I present to this body demonstrates that these goals can be met within the established hopes, expectations and guidelines of the day. It is valuable, I believe, to look at the processes which have guided all our work and which have led to my proposal, and I hope that seeing this will help members and the public better understand the complexities of finding a consensus—and therefore a solution—to today's health care problems, while showing that it is not impossible, philosophically, practically, or politically.

Through my conversations with the many people who have involved themselves in this issue, some of the common and major goals have become clear. The country needs a health care system that provides cost-effective, efficient, quality health care to all Americans, with a special emphasis on preventive care and an equitable burden for all citizens.

To achieve these goals, my plan—like those of Senator CHAFEE and the White House—follows these basic guidelines:

First, it has an independent Federal board that designs a basic care package to be offered to all citizens—families, individuals, the elderly, and the poor;

Second, preventive and primary care are emphasized; and

Third, it takes into account the economic effects of the program—especially on tax equity, small business, the deficit, and U.S. international competitiveness.

In addition, in my own proposal, I have paid special attention to the following three factors: State flexibility, financing, and effective cost-control. The solutions that my bill proposes respond to some of the tougher questions that have become both economic and political sticking points in this issue. Not only does it provide realistic answers, but it offers a viable option for all parties: It works well to combine the most important aspects of different reform models and also to provide affordable, quality health care to all Americans.

Throughout the development of this bill, I have kept the views of many sides in mind—both liberals and conservatives. To simplify: Liberals want universal access at any cost, and conservatives lean toward independent management, trying to keep it out of the Federal bureaucracy. MediCORE has evolved from the premises of managed competition, where consumers can join together in purchasing cooperatives to take advantage of group buying power and economies of scale so that they can spread risk and keep insurance costs low.

However, in our planning, one of the things we quickly realized was that not every State could take advantage of managed competition. MediCORE authorizes an independent Federal board to oversee the country's system, but leaves to the States the decision on how to design their delivery systems.

I think we should keep the administration at the local level because I believe that the closer the manager is to the providers and consumers, the more involved each will be and the more efficient will be the control over costs. State managers will have a much better idea of what is happening to the people who are most closely affected. In fact, one of the unique features of MediCORE is that while it encourages managed competition plans, it allows state choice.

I feel it is imperative that States have this flexibility to design whatever

system meets their geographic and demographic needs. Under MediCORE, each State would be free to come up with the method that best meets its needs, we can be assured that both urban and rural areas will be able to work within the kind of system that is best for them, which is a primary concern in our efforts to simplify and unify the country's health care system. While California may well choose a managed competition system, it might be better for Vermont to work within the boundaries of a single payer program.

We recognize that there are political difficulties in changing the present health care system, which is one of the reasons it has taken so long to enact change—a change that will only help the country and its people. We are used to, and many of us are comfortable with, the current employer-based health care system, which results in tax-free income for employees. Yet the high cost of health care has driven many of the small businesses in our economy up against a wall. Faced with rapidly increasing insurance costs and employees in need, for many it has become too costly to insure employees, and so they must make a difficult choice: No insurance for their employees or go out of business.

Politically, one of the most difficult parts of designing a new health care system is financing it; how you pay for it. I laid it out for my constituents in my proposal last Congress and the response has been surprisingly positive. People don't mind paying for health care in a rational, above-board fashion. But only recently has the national debate started to wrestle with this issue.

The reason is that if we move to a progressive system for financing, most people will pay less. The reasons are simple. Cost shifting adds a tremendous premium to health care costs. By eliminating cost shifting, and broadening the funding base, we can provide for comprehensive health care at a lower cost for most Americans.

It is for this reason that I think we should cast a wide net in our health care reform efforts. My proposal seeks to fold the Medicaid and Medicare programs into MediCORE. The result will be better care at lower cost. This is obviously true for the Medicaid Program, but also true for Medicare, given the size of the out-of-pocket costs for senior citizens.

Obviously, the money must come from somewhere. What I propose is that the Federal Government essentially assume the costs of private insurance today, and transmit those revenues to the State MediCORE programs. It would do this through a 6-percent premium on adjusted gross income, or AGI. Most people would satisfy this AGI premium through their payroll. The bill would set up a 6-percent payroll premium which would be credited against the AGI liability. Of the payroll premium, 4 percent would be paid by the employer, 2 percent by the employee.

Basing health care coverage on income is much more fair for employees than essentially levying a head tax on employment. Moreover, it is a fair way to help businesses cope with the astronomical health care costs.

As you can see in this chart, it saves a great deal of money for small businesses. MediCORE aims to remove the responsibility for health care from the employment sector. Using the Department of Labor and Commerce estimates, MediCORE could save companies with fewer than 20 employees $41,000; those with 20–90 employees up to $132,000; and for those with 100–500 employees approximately $634,000. I can't think of a company that would not enjoy that kind of savings.

And as we all know, many employees already pay for their health benefits. To control business costs, many companies have been increasing employee cost-sharing through rising deductibles and higher premiums. Overall, the 2-percent tax will save money for most employees. While the businesses save money, too, I hope that these extra savings could be put toward employee pensions to insuring for a more secure retirement.

I would also like to stress that in my plan, the Federal Government would collect all the money and redistribute it to the States, readjusting the funds based on a per capita amount. In no event would a State get back less than what it puts in through AGI and payroll premiums.

A 6-percent premium may not seem like a lot to pay for good health care for the entire country. But the administration agrees that not much more money than that needs to be added to cover the total expenses of universal care. It is also clear that we must eliminate the cost shifting that occurs presently in the system, to allow the costs of health care provision to be more equitable to all. Cost-shifting within Federal programs has led to chronic underfunding which, in turn, has contributed to the sharply escalating premiums we all face.

By guaranteeing that every person is insured, we can guarantee that every person's care is being paid for by prearranged groups, which is in turn being paid for out of employer and employee wages. No longer will costs of the uninsured be shifted onto others; the costs for services will be more equitable for all and each individual will have a stake in the system.

A global budget is one of the reasons that cost-control is so important in MediCORE. The bill concentrates especially on finding a way to level off national health care spending. The $912 billion we are expected to finance health care for all Americans. We must live within current health care expenditures. States using market force principles are more likely to accomplish this task than the Federal Government. However, the Federal Government must remain an active participant in health care reform.

One of the distinguishing factors of my MediCORE proposal is that a strict cap on health care spending is coupled with a national board empowered to enforce the limits of the global budget through changes in a national benefits package. This is important because of its impact on the Federal budget. Already $1 out of every $7 spent by the Government is spent on health care. Without strict cost containment, this number will only continue to increase.

MediCORE begins with the establishment of this global budget because it makes sure we are not just putting a Band-Aid on a broken limb, especially at the Federal level where the increasing costs in health care are at least one-half of our deficit problem and will contribute to more problems in the future. MediCORE establishes the goal of freezing health care expenditures at the 1993 level of $912 billion, in real dollars plus revenue growth. This chart shows that analysis based on figures from HCFA and CBO indicate that we will be able to maintain spending at current levels and by the middle of the next decade save over $1.52 trillion by limiting the growth of health care spending to the growth in our economy.

Along these lines, the MediCORE plan encourages States to initiate malpractice reform to cut down on the costs of defensive medicine. Because MediCORE makes preventive care available to all, people are healthier and spend less money on care in the long run. It would set up information centers that would collect data about cost, procedures, and outcomes to help administrators streamline their systems and make them more cost- and quality-effective. And, overhauling the system to make a level playing field for consumers will force insurers to become more competitive by reducing the waste inherent in fraud, double-billing, and excess utilization.

There is little, if any, disagreement on the need for fundamental reform of our health care system to provide comprehensive coverage to all. We are challenged to create a system which looks out for all individuals and provides them with good care. This change will not be painless, nor will it be without cost. But Americans have earned the right to health care—a right consistent with the promises of an equality sounded by the founding fathers.

The time to act is now. We need to move into the 21st century on firm, healthy footing. As Americans, we need and demand bold steps to take us there.

I also commend the Clinton administration. We have been working with

them in cooperation to try and design a program, and I am pleased that they are taking and looking seriously at the MediCORE plan and already have adopted many of its provisions. We are hoping that when we get to the even more difficult tasks they will continue and we will continue to work with them to try to work towards a consensus package.

ADDITIONAL COSPONSORS

S. 176

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 176, a bill to amend title XVIII of the Social Security Act with respect to essential access community hospitals, the rural transition grant program, regional referral centers, medicare-dependent small rural hospitals, interpretation of electrocardiograms, payment for new physicians and practitioners, prohibitions on carrier forum shopping, treatment of nebulizers and aspirators, and rural hospital demonstrations.

S. 257

At the request of Mr. BUMPERS, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 473

At the request of Mr. JOHNSTON, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 473, a bill to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes.

S. 676

At the request of Mr. WOFFORD, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. PRYOR], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 676, a bill to amend certain education laws to provide for service-learning and to strengthen the skills of teachers and improve instruction in service-learning, and for other purposes.

S. 726

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 726, a bill to amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net health care facilities, and for other purposes.

S. 775

At the request of Mr. WALLOP, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 775, a bill to modify the requirements applicable to locatable minerals on public lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 833

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 833, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 834

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 834, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 1021

At the request of Mr. INOUYE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1021, a bill to assure religious freedom to Native Americans.

SENATE JOINT RESOLUTION 88

At the request of Mr. DECONCINI, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from North Carolina [Mr. HELMS], the Senator from North Dakota [Mr. CONRAD], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 88, a joint resolution to designate July 1, 1993, as "National NYSP Day".

SENATE JOINT RESOLUTION 94

At the request of Mr. DOLE, the names of the Senator from New York [Mr. D'AMATO], the Senator from Hawaii [Mr. INOUYE], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 94, a joint resolution to designate the week of October 3, 1993, through October 9, 1993, as "National Customer Service Week".

SENATE JOINT RESOLUTION 95

At the request of Mr. PELL, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 95, a joint resolution to designate October 1993 as "National Breast Cancer Awareness Month".

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. SHELBY, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Concurrent Resolution 16, a concurrent resolution expressing the sense of Congress that equitable mental health care benefits must be included in any health care reform legislation passed by Congress.

SENATE RESOLUTION 92

At the request of Mr. ROBB, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of Senate Resolution 92, a resolution condemning the proposed withdrawal of North Korea from the Treaty on the Non-Proliferation of Nuclear Weapons, and for other purposes.

At the request of Mr. WOFFORD, his name was added as a cosponsor of Senate Resolution 92, supra.

SENATE RESOLUTION 113

At the request of Mr. MITCHELL, his name was added as a cosponsor of Senate Resolution 113, A resolution condemning the extraconstitutional and antidemocratic actions of President Serrano of Guatemala.

AMENDMENTS SUBMITTED

CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

KERRY (AND OTHERS) AMENDMENT NO. 381

Mr. KERRY (for himself, Mr. BIDEN, Mr. BRADLEY, Mr. SIMON, Mr. WELLSTONE, Mr. FEINGOLD, and Mrs. BOXER) proposed an amendment to amendment No. 366 (in the nature of a substitute) to the bill (S. 3) entitled the "Congressional Spending Limit and Election Reform Act of 1993," as follows:

On page 17, strike line 22 and all that follows through page 37, line 5, and insert the following:

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), the amounts determined under this subsection are—

"(A) the public financing amount;

"(B) the independent expenditure amount; and

"(C) in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the public financing amount is—

"(A) in the case of an eligible candidate who is a major party candidate and who has met the threshold requirement of section 501(e) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate under section 502(b) (without regard to paragraph (4) thereof) reduced by the amount of voter communication vouchers issued to the eligi-

ble candidate and the amount of the threshold requirement of section 501(e); and

"(B) in the case of an eligible candidate who is not a major party candidate and who has met the threshold requirement of section 501(e) during the general election period, an amount equal to the amount of contributions received during that period in excess of the threshold requirement under section 501(e) in the aggregate amount of $250 or less, up to 50 percent of the general election spending limit under section 502(b).

"(3) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

"(4) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(C) is not greater than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $250 or less, up to 50 percent of the general election spending limit under section 502(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The aggregate amount of voter communication vouchers issued to an eligible Senate candidate during a general election period shall be equal to 50 percent of the general election expenditure limit under section 502(b) (25 percent of such limit if such candidate is not a major party candidate).

"(2) Voter communication vouchers shall be used by an eligible Senate candidate—

"(A) to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate, except that any broadcast so purchased must be at least 60 seconds in length;

"(B) to purchase print advertisements during the general election period; or

"(C) to pay for postage expenses incurred during the general election period.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1)(A) An eligible Senate candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (3) and (4) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

"(B) In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit under section 502(b) with respect to such candidate shall be increased by the amount (if any) by which the excess described in subsection (b)(1) exceeds the amount determined under subsection (b)(2)(B) with respect to such candidate.

"(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

"(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(e) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(j), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 503, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATION AND AUDITS.—(1) The Commission shall conduct an examination and audit of the candidates' campaign accounts in 10 percent of the elections to seats in the Senate in each general election, and of the candidates' campaign accounts in each special election to a seat in the Senate, to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a general election to a Senate seat for examination and audit, the Commission shall examine and audit the campaign activities of all candidates in that general election whose expenditures were equal to or greater than 30 percent of the general election expenditure limit under section 502(b) for that election.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 501(d); or

"(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to the sum of—

"(i) three times the amount of the excess expenditures plus an additional amount determined by the Commission, plus

"(ii) if the Commission determines such excess expenditures were willful, an amount equal to the benefits the candidate received under this title.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid within 30 days of the election, except that a reasonable amount may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(g) PAYMENTS RETURNED TO SOURCE.—Any payment, repayment, or civil penalty required by this section shall be paid to the entity from which benefits under this title were paid to the eligible Senate candidate.

"(h) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to any entity from which benefits under this title were paid.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

"(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund (and any account thereof).

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe (in accordance with the provisions of subsection (c)) such rules and regulations, to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rule or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE SENATE CANDIDATES.

"No eligible Senate candidate may receive amounts under section 503(a)(3) or vouchers under section 503(a)(4) unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"SEC. 510. SENATE ELECTION CAMPAIGN FUND.

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the Senate Election Campaign Fund (hereafter in this section referred to as 'the Fund').

"(2) There are hereby appropriated to the Fund the following amounts:

"(A) Amounts received in the Treasury which are equivalent to the increase in Federal revenues by reason of the disallowance of deductions for lobbying expenditures, but only to the extent that: "(i) such amounts do not exceed the amount certified by the Commission as necessary to carry out the purposes of this title; and "(ii) such amounts do not exceed the amount designated by taxpayers on a Federal election campaign checkoff.

"(B) Amounts transferred to the Fund under any provision of this Act.

"(C) Amounts credited to the Fund under paragraph (3).

"(3) The Secretary of the Treasury shall transfer amounts to, and manage, the Fund in the manner provided under subchapter B of chapter 98 of the Internal Revenue Code of 1986.

"(4) Amounts in the Fund shall, subject to the availability of appropriations, be available only for the purposes of—

"(A) providing benefits under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(5) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Fund.

"(c) VOUCHERS.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary of the Treasury shall, subject to the availability of appropriations, issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment, or issuance of a voucher, to an eligible candidate, the Secretary determines that the monies in the Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general

election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the Fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the Fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1994.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. . (c) SENSE OF THE SENATE REGARDING PRESIDENTIAL CHECKOFF.—

It is the sense of the Senate that—

(1) the current Presidential checkoff should be increased to $5.00 and its designation charged to the "Federal Election Campaign Checkoff and individuals should be permitted to contribute an additional $5.00 to the fund in additional taxes if they so desire; and

(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to increase citizen participation.

CHAFEE (AND OTHERS) AMENDMENT NO. 382

Mr. CHAFEE (for himself, Mr. COHEN, Mr. JEFFORDS, Mr. MCCAIN, and Mr. DURENBERGER) proposed an amendment to amendment No. 366 (in the nature of a substitute) to the bill, S. 3, supra, as follows:

At the appropriate place insert the following:

SEC. . OUT-OF-STATE FUNDRAISING.

Title III of FECA, as amended by section . is amended by adding at the end the following new section:

"OUT-OF-STATE FUNDRAISING

"SEC. . A person shall not solicit or accept a contribution from a person that is not a legal resident of the candidate's State of residence prior to the date that is 2 years prior to the date of a general election for a Congressional office in which the person seeks to become a candidate.".

DOLE (AND OTHERS) AMENDMENT NO. 383

Mr. DOLE (for himself, Mr. BROWN, and Mr. LOTT) proposed an amendment to amendment No. 366 (in the nature of a substitute) to the bill, S. 3, supra, as follows:

It is the sense of the Senate that every employee in the executive or legislative branch of the Federal Government shall follow appropriate officially prescribed procedures in contacts and dealings with the Federal Bureau of Investigation and the Internal Revenue Service.

BINGAMAN (AND OTHERS) AMENDMENT NO. 384

Mr. BINGAMAN (for himself, Mr. HARKIN, Mr. FORD, Mr. KENNEDY, Mr. JEFFORDS, Mr. DOMENICI, Mr. LEAHY, Mr. KERRY, Mr. MITCHELL, and Mr. NUNN) proposed an amendment to amendment No. 366 (in the nature of a substitute) to the bill, S. 3, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REGARDING THE EXTRACONSTITUTIONAL ACTIONS OF THE PRESIDENT OF GUATEMALA.

(a) FINDINGS.—The Congress finds that—

(1) Guatemala has had a democratically elected government since 1985;

(2) President Jorge Serrano and the members of the Guatemalan Congress were freely and fairly elected;

(3) on May 25, 1993, President Serrano seized near-dictatorial powers by partially suspending Guatemala's Constitution, dissolving Congress and the Supreme Court, and ruling by decree;

(4) these events are extraconstitutional and antidemocratic and require immediate international attention and action; and

(5) the Organization of American States agreed in Santiago, Chile, in 1991 to convene an emergency meeting of the Hemisphere's foreign ministers in the event of a coup d'etat in a member country in order to consider joint actions to bring about a return to democracy in that country.

(b) POLICY.—The Congress—

(1) condemns the extraconstitutional and anti-democratic actions of President Serrano of Guatemala and considers those actions a serious blow to democracy in Guatemala and a serious threat to democracy in the Hemisphere;

(2) calls on President Serrano to restore immediately the democratically elected Congress and the judiciary and to ensure full respect for internationally recognized human rights;

(3) commends President Clinton for his rapid and decisive response to the situation in Guatemala, in particular his condemnation of President Serrano's actions and his suspension of disbursements of United States assistance;

(4) calls on the President to suspend the United States assistance program to Guatemala, and to seek to delay approval of any international loans for Guatemala, until constitutional government is restored to Guatemala; and

(5) commends the Organization of American States (OAS) for its plan to send a fact-finding mission headed by the Secretary General to Guatemala and for calling a meeting of the foreign ministers of the OAS member countries, to be held within 10 days.

GRAHAM AMENDMENTS NOS. 385–386

Mr. GRAHAM proposed two amendments to amendment No. 366 (in the nature of a substitute) to the bill, S. 3, supra, as follows:

AMENDMENT No. 385

At the end of title VII add the following:

SEC. ___. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

Title III of FECA, as amended by section ___, is amended by adding at the end the following new section:

"CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT

"SEC. ___. (a) CANDIDATES.—A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(b) PERSONS OTHER THAN CANDIDATES.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that—

"(1) advocates the election of a particular candidate in an election; and

"(2) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular,

shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.".

AMENDMENT No. 386

On page 8, line 2, strike "and".

On page 8, line 4, strike the period and insert "; and".

On page 8, between lines 4 and 5, insert the following:

"(F) the candidate agrees to participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other eligible Senate candidates for the seat sought by the candidate.".

On page 28, between lines 9 and 10, insert the following:

"(f) FAILURE TO PARTICIPATE IN DEBATE.—If the Commission determines that an eligi-

ble Senate candidate failed to participate in a debate as agreed under section 501(c)(1)(F) and was responsible at least in part for the failure, the Commission shall so notify the candidate, and the candidate shall pay an amount equal to the payments and vouchers received under this title.".

On page 28, line 10, strike "(f)" and insert "(g)".

On page 28, line 20, strike "(g)" and insert "(h)".

On page 28, line 24, strike "(h)" and insert "(i)".

UNCLAIMED DEPOSITS AMENDMENTS ACT OF 1993

RIEGLE AMENDMENT NO. 387

Mr. MITCHELL (for Mr. RIEGLE, Mr. D'AMATO, and Mr. KERRY) proposed an amendment to the bill (H.R. 890) to amend the Federal Deposit Insurance Act to provide for extended periods of time for claims on insured deposits, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENTS RELATING TO TREATMENT OF UNCLAIMED DEPOSITS AT INSURED BANKS AND SAVINGS ASSOCIATIONS.

Subsection (e) of section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822(e)) is amended to read as follows:

"(e) DISPOSITION OF UNCLAIMED DEPOSITS.—

"(1) NOTICES.—

"(A) FIRST NOTICE.—Within 30 days after the initiation of the payment of insured deposits under section 11(f), the Corporation shall provide written notice to all insured depositors that they must claim their deposit from the Corporation, or if the deposit has been transferred to another institution, from the transferee institution.

"(B) SECOND NOTICE.—A second notice containing this information shall be mailed by the Corporation to all insured depositors who have not responded to the first notice, 15 months after the Corporation initiates such payment of insured depositors.

"(C) ADDRESS.—The notices shall be mailed to the last known address of the depositor appearing on the records of the insured depository institution in default.

"(2) TRANSFER TO APPROPRIATE STATE.—If an insured depositor fails to make a claim for his, her, or its insured or transferred deposit within 18 months after the Corporation initiates the payment of insured deposits under section 11(f)—

"(A) any transferee institution shall refund the deposit to the Corporation, and all rights of the depositor against the transferee institution shall be barred; and

"(B) with the exception of United States deposits, the Corporation shall deliver the deposit to the custody of the appropriate State as unclaimed property, unless the appropriate State declines to accept custody. Upon delivery to the appropriate State, all rights of the depositor against the Corporation with respect to the deposit shall be barred and the Corporation shall be deemed to have made payment to the depositor for purposes of section 11(g)(1).

"(3) REFUSAL OF APPROPRIATE STATE TO ACCEPT CUSTODY.—If the appropriate State declines to accept custody of the deposit tendered pursuant to paragraph (2)(B), the deposit shall not be delivered to any State, and the insured depositor shall claim the deposit from the Corporation before the receivership is terminated, or all rights of the depositor with respect to such deposit shall be barred.

"(4) TREATMENT OF UNITED STATES DEPOSITS.—If the deposit is a United States deposit it shall be delivered to the Secretary of the Treasury for deposit in the general fund of the Treasury. Upon delivery to the Secretary of the Treasury, all rights of the depositor against the Corporation with respect to the deposit shall be barred and the Corporation shall be deemed to have made payment to the depositor for purposes of section 11(g)(1).

"(5) REVERSION.—If a depositor does not claim the deposit delivered to the custody of the appropriate State pursuant to paragraph (2)(B) within 10 years of the date of delivery, the deposit shall be immediately refunded to the Corporation and become its property. All rights of the depositor against the appropriate State with respect to such deposit shall be barred as of the date of the refund to the Corporation.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'transferee institution' means the insured depository institution in which the Corporation has made available a transferred deposit pursuant to section 11(f)(1);

"(B) the term 'appropriate State' means the State to which notice was mailed under paragraph (1)(C), except that if the notice was not mailed to an address that is within a State it shall mean the State in which the depository institution in default has its main office; and

"(C) the term 'United States deposit' means an insured or transferred deposit for which the deposit records of the depository institution in default disclose that title to the deposit is held by the United States, any department, agency, or instrumentality of the Federal Government, or any officer or employee thereof in such person's official capacity.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 1 of this Act shall only apply with respect to institutions for which the Corporation has initiated the payment of insured deposits under section 11(f) of the Federal Deposit Insurance Act after the date of enactment of this Act.

(b) SPECIAL RULE FOR RECEIVERSHIPS IN PROGRESS.—Section 12(e) of the Federal Deposit Insurance Act as in effect on the day before the date of enactment of this Act shall apply with respect to insured deposits in depository institutions for which the Corporation was first appointed receiver during the period between January 1, 1989 and the date of enactment of this Act, except that such section 12(e) shall not bar any claim made against the Corporation by an insured depositor for an insured or transferred deposit, so long as such claim is made prior to the termination of the receivership.

(c) INFORMATION TO STATES.—Within 120 days after the date of enactment of this Act, the Corporation shall provide, at the request of and for the sole use of any State, the name and last known address of any insured depositor (as shown on the records of the institution in default) eligible to make a claim against the Corporation solely due to the operation of subsection (b) of this section.

(d) DEFINITION.—For purposes of this section, the term "Corporation" means the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or the Federal Savings and Loan Insurance Corporation, as appropriate.

Amend the title so as to read: "An Act to amend the Federal Deposit Insurance Act to improve the procedures for treating unclaimed insured deposits, and for other purposes.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Senator FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, June 24, 1993, at 9:30 a.m., to receive testimony on S. 716, to require that all Federal lithographic printing be performed using ink made from vegetable oil.

Individuals and organizations who wish to submit a statement for the hearing record are requested to contact Bob Harris of the Rules Committee staff on 202-224-0285.

For further information regarding this hearing, please contact Mr. Harris.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 10, 1993, beginning at 2:30 p.m. in Room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently before the subcommittee. The bills are:

S. 294, to authorize the Secretary of the Interior to formulate a program for the research, interpretation, and preservation of various aspects of colonial New Mexico history, and for other purposes;.

S. 310, to amend title V of public law 96-550, designating the Chaco Cultural Archeological Protection Sites, and for other purposes;.

S. 313, to amend the San Juan Basin Wilderness Protection Act of 1984 to designate additional lands as wilderness and to establish the Fossil Forest Research Natural Area, and for other purposes;.

S. 643 and H.R. 38, to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes;.

S. 836, to amend the National Trails System Act to provide for a study of El Camino Real de Tierra Adentro, the Royal Road of the Interior Lands, and for other purposes.

S. 983, to amend the National Trails System Act to direct the Secretary of the Interior to study the El Camino Real Para Los Texas for potential addition to the National Trails System, and for other purposes.

H.R. 698, to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park; and.

H.R. 843, to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at 202–224–7145.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 17, 1993, beginning at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently pending before the subcommittee. The bills are:

S. 273, to remove certain restrictions from a parcel of land owned by the city of North Charleston, SC, in order to permit a land exchange, and for other purposes;

S. 472, to improve the administration and management of public lands, national forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands;

S. 742, to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Historical Park, and for other purposes;

S. 752, to modify the boundary of Hot Springs National Park, and for other purposes;

S. 851, to establish the Carl Garner Federal Lands Cleanup Day, and for other purposes;

S. 971, to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes; and

H.R. 236, to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at 202–224–7145.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 27, 1993, beginning at 2 p.m., in 485 Russell Senate Office Building, on the President's budget request for Indian programs for fiscal year 1994 for the Indian Health Service and Indian Programs within the Environmental Protection Agency.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS AND ENVIRONMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 27 at 2 p.m. to continue hearings on the fiscal year 1994 foreign assistance authorization: policies and programs for economic development.

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

SUBCOMMITTEE ON AVIATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 27, 1993, at 9 a.m. on the FAA/NTSB regulatory policy.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on May 27, 1993, at 10 a.m. on uses of advanced materials for civil infrastructure.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, May 27, 1993, at 11 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 27, 1993, at 11:30 a.m. to hold a business meeting.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 27, 1993, at 10 a.m. to hold nomination hearings for ambassadorial appointments: Marilyn McAfee, to be Ambassador to Guatemala; William Pryce, to be Ambassador to Honduras; and James Cheek, to be Ambassador to Argentina.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, May 27, 1993, beginning at 10 a.m. to conduct a hearing on environmental issues associated with closing military bases.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Thursday, May 27, 1993, at 9:45 a.m. to mark up reconciliation; S. 422, the Government Securities Act Amendments; S. 50, the Jefferson Commemorative Coin Act; S. 183, the Red Skelton Gold Medal; S. 216, the World University Games Commemorative Coin Act. This markup will be immediately followed by a full committee hearing on S. 783, the Consumer Report Reform Act of 1993.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., May 27, 1993, to receive testimony on S. 991, the Lower Mississippi Delta Initiative of 1993.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 27, 1993, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON DEFENSE TECHNOLOGY, ACQUISITION, AND INDUSTRIAL BASE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Technology, Acquisition, and Industrial Base of the Senate Armed Services Committee be authorized to meet on Thursday, May 27, 1993, at 2:30 p.m. in open session to review the fiscal year 1994 Advanced Research Projects Agency [ARPA] program and the science and technology programs of the services associated with the Defense Authorization request for fiscal year 1994 and the future years defense program.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 27, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on the Native American Grave Protection and Repatriation Act.

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

ADDITIONAL STATEMENTS

BLUMENTHAL ON BOSNIA

• Mr. BIDEN. Mr. President, the most recent edition of New Yorker magazine, dated May 31, carries an excellent analysis, written by Washington editor Sidney Blumenthal, of the problems that have plagued American policy in Bosnia.

I urge my colleagues and the administration to consider the author's conclusion:

Clinton's mandate is to be a domestic-policy President, but if he falters in foreign policy his Presidency will be fatally undermined. There are few things more dangerous to a President's and a nation's credibility than the suggestion of commitment without putting force behind it.

I ask that this important article appear in today's RECORD.

The article follows:

LONESOME HAWK

(By Sidney Blumenthal)

Bill Clinton's leadership in the first great foreign-policy crisis of his Presidency is a study in purpose without power. His moment of decision regarding Bosnia, if there was one, came on Saturday, May 8th, when Secretary of State Warren Christopher arrived at the White House to report to the President on his canvass of the European allies. After learning of their rejection of his initiative, known as "lift and strike"—lifting the arms embargo on the Bosnians and striking the Serbs with air power—the President found himself unarmed.

Clinton had understood the events from the beginning, but he treated their complexities as matters of ratiocination. He gave what he decided were the correct answers to the questions, like a straight-A student, rather than instructing others. His consultations verged on deference. His approach was to grope for a safe path out of the darkness. He knew where his analysis led him, but he would not act on it. His position amounted to public speculation about what he would do, if he could. Grappling with contending visions of the past, he would not define history for his own use. He encountered a cacophony in Congress, which he decided not to quell. And he met with a sophisticated cynicism in Europe, which prevailed in the absence of decisive American leadership.

The debate over Bosnia is enveloped in layers of historical metaphor. For some, it is the Holocaust: never again, they say, should the Western conscience abandon a scorned minority in Europe to genocide. For others, the most resonant past is the period leading up to the Second World War, when America was riven by isolationists and interventionists. In either of these contexts, diplomacy without force takes on the appearance of appeasement. For still others, the reigning metaphor comes from a more recent war: Vietnam. In their view, intervention in any foreign land threatens to be a quagmire, and any use of force short of immediately overwhelming power that achieves total victory must be scrupulously avoided.

But the nation's political alignments, which rigidly held for a generation, magnetically polarized by Vietnam, have been released by the ending of the Cold War. The Bosnian conflict did not re-create them. On the contrary, hawks sprouted the plumage of doves and doves grew sharp talons. (The preeminent hawk on Bosnia in the Senate is Joseph Biden, Democrat of Delaware, a one-time sixties idealist; among the leading doves is John McCain, Republican of Arizona, who piloted a bomber and was taken prisoner by the North Vietnamese.) Bemedalled generals spent part of their days arguing that gays would destroy military discipline and another part resisting intervention like dedicated pacifists. And a President who had marched against the Vietnam War contemplated bombing in the Balkans.

In Serbia, historical metaphor has had an even more mesmerizing effect. Yugoslavia was an artificial state imposed on hostile religious and national groups: Croatian Catholics, Serbian Eastern Orthodox, and Bosnian Muslims. Many of the Muslims are more Westernized than their Serb counterparts, and there is no ethnic difference between the two groups. The Muslims are not Turks or Arabs but Europeans, whose ancestors became converts during the Ottoman Empire. Most are secular. Bosnia is like a city-state, centered on cosmopolitan Sarajevo, which was the only place in Yugoslavia where pluralist tolerance and civility truly prevailed.

When Slobodan Milosevic staged a coup in Belgrade, in 1987, he jettisoned the decrepit Communism he had loyally served for a resurgent nationalism. His rise, a symptom of disintegration, accelerated the process. First, Slovenia and Croatia seceded; then Macedonia. Serbia and Croatia were already at war. When that conflict faded, Milosevic's drive for Greater Serbia pushed into Bosnia. Bosnia had been formally organized as a multiethnic democracy precisely to escape Milosevic's tyranny. The Bosnian Serbs, however, envisioned themselves linked by a blood connection to Greater Serbia and pledged to refight the ancient battle against "the Turks," who were in reality their neighbors. In this holy war, the Bosnians suffered an immense disadvantage. The United Nations had imposed an arms embargo against Milosevic's Yugoslavia; yet, despite this, his Army was easily able to supply the Bosnian Serb rebels with weapons. But the Bosnians, lacking a supplier, remained virtually defenseless. All Bosnian men have long been subjected to a year of military training, and their numbers exceeded those of the Bosnian Serb army. But the embargo, while ostensibly universal, was punitive only against those on the defensive: the Bosnians.

The war invaded the American consciousness in the summer of 1992, with reports of concentration camps and televised scenes of murdered babies. These disquieting images happened to fall into the middle of the Presidential campaign. President Bush adopted a policy of studied indifference. The last thing Bush's campaign strategists wanted was for their candidate to immerse himself in foreign turmoil where American stakes would have to be carefully and lucidly explained. On July 26th, Governor Bill Clinton sought to outflank Bush on foreign policy and dispel the suspicion that he was in the grip of an incapacitating Vietnam syndrome, which Republicans had charged for years was at the core of the Democrats' weakness. Air strikes against the Serbs, Clinton declared, were in order. His stand on Bosnia gave him a novel way to insulate himself against a burdensome political legacy. On October 11th, while he was being assailed as a Vietnam-era "draft dodger," Clinton said he would "consider" lifting the arms embargo on the Bosnians, "since they are in no way in a fair fight with a heavily armed opponent bent on 'ethnic cleansing.'" He added, "We can't get involved in the quagmire, but we must do what we can."

After Clinton's election, the Serbian leadership shrewdly maneuvered to undermine a policy they anticipated would be tougher. They agreed to discuss further the peace plan designed by former Secretary of State Cyrus Vance and former British Foreign Minister David Owen—Vance representing the United Nations, Owen the European Community. The Vance-Owen plan would divide Bosnia into ten virtually autonomous provinces, in which the contending parties would be isolated. The tenuous multiethnic Bosnian democracy would disappear; what would remain of the central government would have hardly any powers. So the Serbs were in Geneva to bicker over squiggles on the map. At the same time, they continued the offensive for Greater Serbia, since they believed that in the end the map would reflect the facts on the ground.

Clinton was horrified at the prospect of ratifying the carnage. Then he discovered that the Europeans resolutely opposed the suggestions he had made as a candidate: lifting the arms embargo an initiating air strikes. Thus the President embarked on a meandering journey. In his first statement on the subject as Chief Executive, on February 5th, he expressed his reluctance to embrace the Vance-Owen plan, on the ground that it "might work to the immediate and to the long-term further disadvantage of the Bosnian Muslims." A week later, Clinton worried that "the terrible principle of 'ethnic cleansing' will be validated; that one ethnic group can butcher another if they're strong enough." But the end of the month, stymied by the European resistance to new initiatives, he was encouraging the Bosnians to "engage in negotiations within the Vance-Owen framework." And on March 1st, frustrated by Serbian aggression, Clinton began a large-scale airdrop of food into beleaguered eastern Bosnia. When, on March 5th, Clinton remarked that the United States "cannot proceed here unilaterally," he was describing at once the necessary condition for action and the principal obstacle to it.

On March 24th, he said, "I am appalled by what has happened there; I am saddened; I am sickened." The next day, under United States pressure, the Bosnians signed the Vance-Owen plan, and Clinton promulgated a no-fly zone over Bosnia. About three weeks later, with the Bosnian town of Srebrenica about to fall to Serbian forces, and with bloody pictures again flooding the network news, Clinton was "outraged" that the Serbs had not signed Vance-Owen. He spoke of a larger danger. "If you look at the turmoil all through the Balkans, if you look at the other places where this could play itself out in other parts of the world, this is not just about Bosnia. On the other hand, there is reason to be humble when approaching anything dealing with the former Yugoslavia." But ten days after that, on April 26th, the President appeared determined to surmount obstacles, declaring, "It is now, I think, clear that the United States and our allies need to move forward with a stronger policy in Bosnia, and I will be announcing the course that I hope we can take in the next several days." Action seemed imminent.

"It's sort of a no-brainer," a senior Administration official remarked to me about how to reach the solution to the problem. Clinton's plan was now the same as the one he had suggested during the campaign: lift and strike. Clinton had gone through the intellectual process more intensively than he had during the hurried campaign. Once again he had cracked the conundrum that stumped others.

"I don't know of any peace settlements that didn't ratify what existed on the ground," the official said. "So much is at stake. We don't want to lose. We must have achievable goals. The advantages of lifting the embargo are that it's something we can do: it's a clear goal. And we can succeed in delivering the weapons." If the Croats skim off some of them, so be it: "Making the argument that this would increase violence allows the aggressor to continue 'ethnic cleansing' against an outgunned victim." This axiom of European diplomacy is "exquisite condescension," the official said. "There is the right of a recognized government to defend itself. The embargo was imposed before recognition of Bosnia." The Bosnian Serb army, moreover, is not a formidable force—not the fabled partisans of the Second World War but a motley assemblage of thugs, many of whom are usually drunk, and who have taken few casualties. Under the plan, air power would give the Bosnians time to get armed and would also give cover to allied troops, who could easily be armed with superior weaponry themselves. Much of the Serbian artillery could be knocked out. The Bosnian Serbs, even though buttressed by regular Army units, might wilt quickly. They are far below Iraqi standards. There would be no United States ground troops; the Bosnians would do the fighting. "But it's not going to be successful as Americans see success," the official warned. Good won't unconditionally triumph over evil, even if one side should be all good and the other all evil. But a new "balance of power" could be achieved, which would roll back the dream of Greater Serbia. It was this plan that Clinton subscribed to in early May.

First, Clinton turned to Congress. Senator Biden had just returned from a trip on which he had met with Milosevic and with Bosnian leaders, and on April 19th, as chairman of the Subcommittee on European Affairs of the Foreign Relations Committee, he had filed a report that was read closely, according to a top official, by the Secretary of State and the President. "Every Bosnian I encountered, government official and common citizen alike, was convinced that they could succeed in defending their country if given the means and supported by airstrikes against Serb artillery," Biden wrote. "However well intentioned, the presence of U.N. relief personnel and peacekeeping forces, by inhibiting stronger Western action, now constitutes more an obstacle than a contribution to the humanitarian relief they were deployed to provide."

On April 27th, ten leaders from the House of Representatives and eight senators sat around a long table in the White House for three and a half hours. Clinton listed options, from doing nothing to sending in ground troops. "I want to see what you think," he said. According to a well-informed source, each of the eighteen was asked his opinion, in order of seniority. The House Speaker, Thomas Foley, said that whatever was done should receive the consent of Congress. The Senate Majority Leader, George Mitchell, agreed that now was the time for action. No, it was not the time, Lee Hamilton, the chairman of the House Foreign Affairs Committee, insisted. Perhaps action would be called for at a later date, he said, but now it would only inspire the Serbs to more violence. In any case, Milosevic seemed genuinely interested in making peace. Biden countered that Milosevic was a war criminal, who couldn't be trusted. He urged lifting the embargo and conducting air strikes—the Administration's desired course. Senator John Warner, Republican from Virginia and the constant sidekick of Sam Nunn, the chairman of the Senate Armed Services Committee, warned that air strikes would not work. Nothing less than invading with five hundred thousand troops would do, and it would still be a quagmire. Ronald Dellums, the chairman of the House Armed Services Committee and a left-wing voice from Berkeley, spoke vaguely about defining goals and broader contexts, and then simply said, "Vietnam." Representative John P. ("The 'P' is for Power") Murtha, Democrat from Pennsylvania and a former marine, vehemently opposed action, time and again invoking Vietnam. But Senator Richard Lugar, who had been the chairman of the Foreign Relations Committee when the Republicans were in the majority, argued for force. If "lift and strike" did not produce the desired outcome, he said, then we would have to be prepared to send in troops; once begun, the operation could not be permitted to fail. Then Bob Dole made his contribution: he was for lifting the embargo, for air strikes, and, if that didn't work, for whatever force it took. While seeming to support Clinton, he was also laying down a political marker. Dole, after all, is not just Clinton's nemesis in Congress; he might well be the 1996 G.O.P. Presidential nominee. Those present were keenly aware of the subtext when Dole said to the President, "America's prestige could not tolerate it not working. It would cost you very dearly." Though Dole and Mitchell agreed that if the President requested it they would co-sponsor a joint resolution for force, the meeting ended without the consensus Clinton had hoped for.

A week later, Clinton met with Senator Dale Bumpers, his old friend from Arkansas, who had just returned from the former Yugoslavia. "The chances of getting a resolution through here right now are point-blank zero," Bumpers says he told the President. "The American people know nothing about Bosnia. In the ordinary American mind the Vietnam corollary is almost total." Indeed, a CNN/"USA Today"/Gallup poll published on April 27th showed that sixty-two per cent of the American people were against any United States military action.

Clinton faced another obstacle in the chairman of the Joint Chiefs of Staff. Members of Congress who were briefed by Colin Powell were hardly galvanized; rather, they were given cause for discouragement. Repeatedly sent out to make Clinton's case, Powell repeatedly justified his opposition. When he tried to state the Administration's position, he was questioned about his own well-advertised dissent. "I haven't changed my views," he boldly told one group of House members. At a meeting of NATO's military committee, also on April 27th, Powell participated in a meeting that condemned any policy of further action. The committee chairman, Field Marshal Sir Richard Vincent, of Great Britain, reflecting his government's position, told a press conference in Brussels, "I am healthily skeptical." The chairman of the Joint Chiefs, a Vietnam veteran, in fact opposed intervention unless it followed his precept of "invincible force." Perhaps more than anyone else, the nation's most powerful general was stricken with the Vietnam syndrome. He had been against the buildup of Operation Desert Shield, precisely because he feared that it would not meet his criterion. Before Clinton was inaugurated, Powell volunteered to him that a Bosnian intervention short of five hundred thousand men would fail and that even such a force might not succeed. Clinton had no stomach for confronting Powell, who is the most popular black public official in the country, and whose term, in any case, expires in September. "We all understand what's going on. He's got the President mousetrapped," a Senate aide said. "Powell is being very coy, and he's full of political egotism. I can't remember when a President has been in such a situation." As it happens, Admiral Jeremy M. Boorda, who is in charge of the NATO forces in Southern Europe, does not share Powell's view of military capabilities and prospects, according to the Senate aide, who has spoken to Boorda at length on several occasions. But Boorda expresses his assessment only privately, to United States officials, following strict lines of authority, and declines to be interviewed. Powell's mystique shadows any military enterprise. One senior White House staffer has worried that if anything went wrong in a Bosnian intervention Powell might actually plot to use it politically to damage the President.

In early May, unable to forge a consensus at home, Clinton sent his Secretary of State abroad. Warren Christopher's own position had gyrated over the months, and his oscillations had contributed to a State Department revolt. In the beginning, on February 10th, Christopher had said that the Bosnian crisis "tests what wisdom we have gathered from this bloody century, and it measures our resolve to take early concerted action." Six weeks later, he cast the situation as a waking nightmare that could not be made to disappear. "It's almost terrifying, and it's centuries old," he said. "That really is a problem from hell. And I think that the United States is doing all we can to try to deal with that problem." When Margaret Thatcher called for decisive military intervention, Christopher dismissed her statement as "an emotional response to an emotional problem," as though it were a menstrual cramp. But the problem would not return to the netherworld from whence it came. In April, twelve State Department experts wrote Christopher a letter, which was leaked to the

"Times." "We are only attempting to end the genocide through political and economic pressures such as sanctions and intense diplomatic engagement," the letter read. "In effect, the result of this course has been Western capitulation to Serbian aggression."

The consistent hawks within the Administration councils were the director of the National Security Council, Anthony Lake; his deputy, Sandy Berger; and Vice-President Al Gore. As Clinton had moved in favor of force, so had Christopher. But when the President dispatched Christopher to feel out European opinion, which was already obvious, he did not empower him to compel adherence. (It is hard to imagine James Baker undertaking a mission without power.) On May 2nd, when Christopher arrived in London, his first stop, he was met with the news that the Bosnian Serb leader, Radovan Karadzic, had agreed to the Vance-Owen plan. Christopher, according to a State Department official, was skeptical about the Serbs' intent. But throughout Europe the signing was greeted with immense relief, as though the crisis were about to end in a flurry of diplomacy. None of the allies agreed with Clinton's options, nor were they particularly eager to discuss them. While Christopher travelled, Slobodan Milosevic addressed the self-styled Bosnian Serb parliament to argue that it should support Vance-Owen because doing so would codify a Greater Serbia victory. "One should not gamble away what one has already gained," he admonished. But the parliament decided to consign the plan to a referendum, thus dooming it to certain rejection. The fact of the referendum, however, provided grounds for more European temporizing. There could be no decisions, they told Christopher, until they knew the referendum's outcome; give Milosevic a chance.

So the Secretary reported to the President. Clinton listened to Christopher, as Christopher had listened to the Europeans. Christopher urged him to "stay the course," and so did Anthony Lake, according to someone privy to the discussion. The President did not recant on his stated desire to lift the embargo and order air strikes. But, facing ambivalence, confusion, and reluctance, here and abroad, he decided he would not go to war on all fronts. By professing a position that had become merely an academic opinion, the President sided with the forces of inertia. Already dressed in his golf clothes, he headed for the links.

On the day before Christopher returned, Haris Silajdzic, the Bosnian Foreign Minister, decided to tour the new Holocaust Museum in Washington. Silajdic, a forty-eight-year-old former diplomatic historian, is operating alone out of a hotel on the edge of Georgetown. His wife and six-year-old son live shielded outside Bosnia; he has not seen them in two months. "Europeans think we are not proper Europeans, because we are Muslim, and the Muslims think we are not proper Muslims, because we are European," he says. "Bosnia it's so exotic."

He is escorted into the museum ahead of the morning crowd—a group consisting mostly of senior citizens and students, in a line that snakes around the building. Inside the dim, industrial environment, Silajdzic walks slowly from exhibit to exhibit, drawing comparisons. "People don't believe you. It couldn't be happening. But it's not over." He points to Bosnia on a map of Europe. "The virus is there," he says. "There are those who say we should not be reminded. It is better to walk through a museum than a concentration camp."

He stops to gaze at a poster promoting "Grosdeutschland, Ja!," and he notes the parallel to Greater Serbia. Then he pauses at a display about Munich: "Our people have lived together for hundreds of years," he says. "These savages say we can't live together. These savages try to build walls. In Europe they seem to prefer tribal chiefs to democracy. Easy decisions can be taken by anyone. Europe is silent, a chain of Chamberlains. In fifty years they will condemn it."

Silajdzic sees all the awful pictures and artifacts of systematic death. But what arouses and upsets him most is a quotation he discovers in a section devoted to the negligent role of American policymakers. The words that rivet him were written by Assistant Secretary of War John McCloy, who became the epitome of the postwar establishment. It was McCloy who advised against sending Allied bombers to destroy Auschwitz. The bombing, McCloy wrote, "might provoke even more vindictive action by the Germans." Silajdzic repeats the line over and over. "So history does not repeat itself," he says, assuming the mantle of the historian he was in easier times. "But we repeat the same mistakes."

The diplomatic scurrying continues. In a ritual washing of hands, Christopher told the House Foreign Affairs Committee on May 18th that Bosnia was, after all, "a morass," and that ethnic cleansing bore no resemblance to genocide: "It's been easy to analogize this to the Holocaust, but I never heard of any genocide by the Jews against the German people."

The small crisis is over, but not the larger one. It seems implausible that without force the Vance-Owen plan in its pristine form can be put into effect: it would reduce the Serb share of Bosnia to forty-three per cent, but seventy per cent has already been grabbed. The logic of war always dominates the logic of diplomacy. Low-intensity warfare may go on, but the conquest, barring a radical intervention, belongs to Milosevic. He has won his Greater Serbia, leaving some enclaves in which the Muslims can huddle. While the West frets about containing Serbia, preventing its expansion into Macedonia and Kosovo, the next war may instead be the next round in the Serbs' continuing war with Croatia—settling borders by fighting over bits and pieces of Bosnia.

The ragged—Balkanized, in fact—nature of this episode masks its importance. Bosnia has not been just about Bosnia. If NATO had any mission after the Cold War, it was to maintain European stability; it has now been revealed to be without purpose. The Europeans, dealing through various international agencies, made gestures of coping, which naturally failed. Ultimately, what they wanted from the United States was partnership in blame. Without the United States to direct it, the Western alliance is little more than an armored vehicle bearing relief. Clinton's post-Bosnian foreign policy confronts the ruin of NATO.

The triumph of Milosevic may mark the true beginning of the post-Communist era. Just as the breakup of Yugoslavia foretold that of the Soviet Union and Czechoslovakia, so may the ascent of the Serbian strongman be a harbinger. Milosevic, not Havel, may be the New Man. A tradition more deeply rooted in the region than democracy may be stirring. If it comes alive, politics will be ruled by demogogic nationalist appeals and by fear and loathing of others. Democracy will be a façade. The Bosnian crisis has already illuminated the West's complacency about its incapacity to act. Authoritarian populism—Le Pen in France, the Republicans in Germany, Perot in America—is on the rise. Such movements may not necessarily gain power, but they consume democratic politics with efforts to placate and contain them.

In the crisis, the role of master was played not by the American Secretary of State or by the President but by an authoritarian in Belgrade. Clinton sought support for a policy he was not prepared to fight for. His intentions were well meaning, but, finding himself amid political difficulties, he would not take the leap into the unknown. He wished for consensus in a situation that could work only by coercion. Clinton's mandate is to be a domestic-policy President, but if he falters in foreign policy his Presidency will be fatally undermined. There are few things more dangerous to a President's and a nation's credibility than the suggestion of commitment without putting force behind it. "By prestige I mean the shadow cast by power, which is of great deterrent importance," Dean Acheson, Truman's Secretary of State, wrote in his memoir, "Present at the Creation." Without power, of course, there is not even a shadow.●

ANOTHER GOOD MOVE ON CONTRACTORS

● Mr. PRYOR. Mr. President, I rise today to again commend the administration for its leadership in addressing the Federal Government's long-standing problems with its private contractors. Soon after taking office, President Clinton took administrative action to modestly reduce spending on contractors and consultants. Then, OMB Director Leon Panetta, at my urging, mandated a Governmentwide review of the $103 billion that is spent on service contracts.

Today, I want to commend the Secretary of Energy, Hazel O'Leary, for achieving $1.5 billion in savings over the next 5 years by enacting a 1-year salary freeze for employees of DOE's management and operating contractors. It is my understanding that this is an unprecedented, and in my opinion, a long overdue action.

Mr. President, that may seem like a small step to my colleagues, but I can assure you that it is actually a giant step forward for the Federal Government. For over a decade I have examined and sought to reform the Government's use of consultants and contractors. Without much public debate, we have created a large, shadow government of contractors that form a private bureaucracy that mirrors our public one.

While there are numerous problems that arise when the Government contracts out much of its basic work, problems like potential conflicts of interest and the loss of internal capability, one issue that has always been of concern to me is the drastic difference between the treatment of the public and private work force at the agencies. While Federal employees are always subject to uncertainty over their pay increases, private contractors continue receiving their salaries at rates from 20 to 50 percent higher than Federal

workers. I have always wondered about the morale of the Federal employee working side by side with a highly paid private contractor.

Mr. President, now Federal employees at the Department of Energy will know that in these tough budgetary times the private contractors will not escape unscathed. Secretary O'Leary's strong action sends a powerful message that I hope all other agencies will hear.●

AFTER 219 YEARS, HARTFORD PUBLIC LIBRARY CELEBRATES 100TH ANNIVERSARY

● Mr. LIEBERMAN. In 1774, a group of local people formed the Hartford Library Co. to purchase "a collection of useful and religious books for the benefit of themselves and families, and the promotion of virtue and useful knowledge." Thus began what we know today as the Hartford Public Library. On May 9, 1893, the Connecticut General Assembly passed a special act which gave the library its current name.

On Thursday, May 6, 1993, the library held a reception to celebrate its first 100 years, and those who attended had an opportunity to see some of the famed Hartford collection, a large collection of priceless books, publications, letters and other memorabilia.

The Hartford collection was officially begun in 1945 by head librarian Magnus K. Kristoffersen. However, its true creation dates back much earlier. The library's original collection was begun in 1774 by the Library Co., increasing greatly a century later under the leadership of Caroline M. Hewins, when the library was known as the Hartford Young Men's Institute.

The nucleus of the Hartford collection is the personal library of Howard K. Bradstreet, former director of the Hartford Bureau of Adult Education and local historian, which was bequeathed to the library in 1937. Other notables include 18th and 19th century political and religious pamphlets donated by Noah Webster; the Geer collection of city directories from 1828 to 1927; music scores by Dudley Buck and John Spencer Camp; papers and pictures collected by former feature writer for the Hartford Courant Herbert Stoeckel; the Horace Wells collection, the Gwen Reed black history collection, the Bulkeley collection of over 500 children's books printed in Hartford; and the Lydia Huntley Sigourney collection of books and correspondence.

This unique collection serves as a permanent record of the history of Hartford, further enhancing the reputation of a city already associated with such literacy figures as Mark Twain, Noah Webster, Harriet Beecher Stowe, Wallace Stevens, and Charlotte Perkins Gilman, among others.●

TRIBUTE TO AMY CURTIS

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a Kentucky citizen who has distinguished herself as a leader in providing assistance to struggling families in Russia.

Two years ago, Mrs. Amy Curtis of Madisonville was moved by television images of long lines and food shortages in Russia, and decided to try to help. Wanting to find a way she could make a difference to a specific family, she contacted churches, government officials, television stations, and whoever else would listen to find a way to sponsor a Russian family, Finally, she was able to arrange an interview with the former Soviet news agency Tass, which would be seen by others throughout the Soviet Union.

After the story ran, some 200 letters from real Russian families arrived at the Curtis home. This was the beginning of a massive effort to provide direct private assistance to Russian families. Within 2 years, her organization, Family to Family, had linked over 1,600 American families with Russian counterparts. She collected donated goods from United States homes and sent them directly to specific Russian families. After learning of her work, the non-profit Fund for Democracy and Development began helping her ship goods. Seven tractor trailer loads of supplies have been shipped so far. Supplies include shoes, hearing aids, clothing, medicine, and even a mammography machine.

With a grant from the State Department, Mrs. Curtis will be traveling to Chelyabinsk, Russia, in June to set up a thrift shop where families can receive clothing and supplies. Chelyabinsk is a village about one thousand miles east of Moscow that has faced many problems, including radioactive disasters in the 1950's and 1960's. Most of her relief deliveries have gone there. Working with a Russian partner at the receiving end of her shipments, Mrs. Curtis hopes to quickly establish this enterprise to better distribute the donations she receives.

I applaud Amy Curtis' efforts and wish her luck on her trip. Her perseverance and dedication to a project that she could never have imagined would grow this large is inspiring. In this difficult transition the Russians are now going through to implement a market economy, I am delighted that a fellow Kentuckian is leading efforts of private citizens to assist them in their struggle for reform.●

REFORM OF OUR IMMIGRATION SYSTEM

● Mr. BRYAN. Mr. President, as we are all aware, the problem of illegal immigration is not new. For years, hundreds of thousands have attempted to pass through our porous borders, and our attempts to control this influx have been weak at best. Yet, recent events have focused our attention on one specific loophole in our immigration policy—our system of political asylum. The stories are shocking—and call for us, in Washington, to take urgent steps to put a stop to the flaunting of our immigration law that is now occurring.

The United States has always prided itself on its acceptance of those who are not safe in their home countries—those who face torture and death in their homelands. Even today, the United States has no law limiting the number of refugees we will accept from any country. However, the unfortunate reality is that many foreigners have used our generosity to exploit our overburdened immigration system. Unscrupulous aliens have sought to use loopholes in our immigration laws to illegally enter and live in the United States at a high cost to our society, and to legitimate refugees.

Nowhere is this abuse more evident than in our system of granting political asylum. Thousands of aliens have learned that once they arrive at an American port of entry such as the Kennedy Airport in New York, simply by uttering the words "political asylum," they are virtually assured of an extended stay in the United States.

Recent events have shocked the country into recognizing a horrible consequence of this breakdown in immigration control—acts of terrorism within U.S. borders made possible by lapses in our immigration law, particularly our system of adjudicating political asylum cases.

The Nation was jarred into the reality of terrorism by the pictures of chaos and destruction resulting from a bomb placed in the heart of New York's business district. During the followup investigation, it soon became clear that most of the suspects in the bombing has used our chaotic immigration system to enter and remain in the United States illegally.

The New York Times recently characterized two of the suspects in the World Trade Center bombing. One, named Mohammad Ajaj, was apprehended and put into custody when arriving at Kennedy International Airport because of a fraudulent passport. He arrived at the airport carrying in his suitcase instructions on how to place land mines, videotapes on suicide car bombing, and how to make TNT. Unfortunately, the capture and detainment of Mr. Ajaj is the exception.

Another suspect in the bombing who arrived on the same plane, Ramzi Yousef, was not put into custody. Mr. Yousef uttered the magic words "political asylum," which immediately entitled him to stay in the United States until his hearing date, well over 1 year. During the interim, Mr. Yousef was released from detention because of the lack of space. Mr. Yousef is still at large.

Another individual, Mir Aimal Kansi, responsible for the tragic walk-by shootings outside the CIA facility here in the DC area, also used the claim of political asylum to stay in the United States and even received a work authorization. According to a Washington Post article quoting INS officials on February 18, 1993, Kansi's application cemented his stay in the United States because Federal law prohibits the INS from deporting immigrants whose requests are pending. After receiving a work authorization, Kansi was able to receive a job as a courier and a driver's license, enabling him to purchase the assault rifle later used with such horrible effect.

For many years, we here in America have lived under the illusion that we are safe and secure within our borders. Terrorist incidents that splashed across the newspapers always occurred overseas, in the Middle East, in Northern Ireland, in England.

This security blanket was suddenly and violently ripped wide open as a result of these two recent events, that have shocked Americans out of complacency and made us more aware of the everyday dangers of terrorism. A bomb exploding in the business center of our Nation's largest city. A lone gunman walking with impunity shooting at innocent civilians outside the CIA headquarters.

Mr. President, we should not need a tragedy to cause us to act. However, with these recent events, there is now absolutely no excuse for inaction in the face of this serious problem faced everyday by Immigration and Naturalization Officers at points of entry into the United States.

Both of the recent incidents may have been prevented if a more effective immigration screening process had been put into place.

Under the current system, all those who enter the United States, even those with no documents, or blatantly fraudulent documents, are given a full hearing once they claim political asylum. Because of the dramatic increase in the number of aliens claiming political asylum, the current backlog for hearings may be as long as 14 months.

In the meantime, large ports of entry have severe shortages of detention space, and the overflow of aliens are simply let free, on the condition that they will return for a hearing. As you can guess, Mr. President, those with legitimate political asylum claims may actually show up at the hearing, but recent statistics out of New York show that almost 60 percent of those who are released are never heard from again.

Mr. President, the evidence is now overwhelming that foreigners have developed a systematic method of entering and staying in the United States that completely circumvents our immigration law. The statistics are alarming. While in 1980, only 500 aliens applied for political asylum, in 1992, that number had increased to over 103,000.

Currently, almost a quarter of a million asylum cases are waiting to be decided. Yet, in 1992, fewer than 12,000 claims were processed. There can be no question that reform to this system is urgently needed.

I have signed on as a cosponsor to legislation introduced by Senator SIMPSON called the Port of Entry Inspections Improvement Act of 1993. While not a final solution to this problem, this bill would take important steps to expedite the exclusion of aliens who are blatantly attempting to exploit loopholes in our immigration regulations.

Under this bill, those who attempt to use fraudulent documents to enter the United States, or those who produce documents when departing a foreign nation, but destroy them en route, will immediately go before a special immigration officer who will determine if the alien has a credible fear of persecution in their country of departure. Those who have a credible fear will be given a full hearing under our current political asylum laws. However, those without a credible claim of political asylum will be immediately excluded from entering the United States.

Mr. President, the time to change the system is now, before we face another tragedy. I ask Senator BIDEN, chairman of the Judiciary Committee, to pass this bill quickly through committee.●

COMMENDING SAUL AND ELAINE SCHREIBER

● Mr. MCCAIN. Mr. President, I was extremely pleased to hear that Dr. and Mrs. Saul Schreiber have received the National Distinguished Service Award from the Orthodox Union. I would like to congratulate them on this outstanding achievement.

Mr. President, as residents of Arizona, the Schreibers have set a fine example throughout our State for their dedication and commitment to community service. They have served as model citizens, and this prestigious award is a fitting tribute to their efforts.

Mr. President, I am pleased to bring Saul and Elaine Schreiber to the attention of the Senate, and I wish them both continued success in their future endeavors.●

TRIBUTE TO HORSE CAVE

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the town of Horse Cave in Hart County.

Horse Cave is a small town in the southern part of the State near Mammoth Cave National Park. As the name implies, Horse Cave has a cave located in the middle of town.

In the early decades of this century, crowds of visitors came to Horse Cave to tour the cave and stay in town overnight. Horse Cave bustled with department stores, groceries, and a fancy inn known as the Owens Hotel. However, by the 1940's, the cave had become polluted. The pollution ended the cave tours and also killed the blind cave fish that dwelled in an underground stream. The crowds disappeared, and with the tourism gone, Horse Cave struggled with the ills that plague a small town. Farmers started having trouble and the businesses that catered to them struggled too.

In 1989, a new sewer system was installed in the city, stopping the flow of pollution into the downtown cave. The blind cave fish and the tourists started to return, and the city began making its comeback. Investors have started to come into Horse Cave. A 28-store Mammoth Cave Factory Outlet opened in 1991 and a new 100-bed skilled nursing home is under construction. The American Cave and Karst Center just opened its museum on caves in the city, and the 343-seat Horse Cave Theater is undergoing an expansion and renovation. Horse Cave is well on its way of reaching its potential.

I applaud Horse Cave on overcoming its difficulties and moving toward a very prosperous future, making it one of Kentucky's finest towns.

Mr. President, I ask that a recent article from Louisville's Courier-Journal be submitted in today's RECORD.

The article follows:

[From the Louisville Courier-Journal, May 10, 1993]

HORSE CAVE

(By Cynthia Crossley)

As you might imagine, there is a cave in Horse Cave, right smack in the middle of town. And as the fortunes of the cave, which yawns open on Main Street, rose and fell, so went the fortunes of Horse Cave

In 1867, naturalist John Muir said the cave served as a "magnificent fan," cooling "crowds of people" who sat in the shade of trees by its entrance.

"It seems like a noble gateway to the birthplace of springs and fountains and the dark treasures of the mineral kingdom," Muir wrote in his book, "Thousand Mile Walk to the Gulf."

The crowds continued into the early decades of this century. Visitors arrived, first by the trainload, and later in traffic jams miles long to tour the cave and stay in town overnight. Horse Cave bustled with department stores, five groceries and a fancy inn known as the Owens Hotel, the kind of place people want to have Sunday dinner if they weren't already staying there.

But by the 1940s, the cave had turned into a smelly sewer. Pollution ruined a source of drinking water for the town and killed off the cave tours as well as critters such as the blind cave fish that dwelled in an underground stream. Worse, during hot summer days in the 1970s, the odor drifted into town.

The crowds evaporated, and the cave seemed condemned to a fate of sewage, litter and weeds. The hotel closed and fell into ruin. Interstate 65 took over from U.S. 31W as the main north-south artery; travelers could avoid Horse Cave completely.

With tourism gone, Horse Cave struggled with the ills that plague small towns. Agri-

culture, a major part of the local economy, weakened as farmers retired or went broke.

"There's been a lot of dairy farmers go out of this business in the last 10 years . . . and the dairy farm numbers have really declined," said Nick Gunn, president of the Hart County Creamery, a cheese processor that is one of Horse Cave's oldest businesses. ("Unless you count bootlegging," joked City Clerk Ann Matera.)

Gunn's family had located the business to take advantage of a top dairy-producing region. But because of the decreasing supply in Kentucky, "we're now buying raw milk out of Tennessee and North Carolina," Gunn said.

Tobacco farmers haven't been immune to the downturn, thanks to the anti-smoking campaign. During McCubbin Motors' recent annual "Customer Appreciation Day," a customer munching on the farm machinery dealer's free barbecue told a reporter, "You should tell them we don't want any more cigarette taxes here."

As farmers struggled, Horse Cave businesses that catered to them struggled too. The lure of regional malls and a large Wal-Mart in Glasgow didn't help. Some downtown stores closed.

"The thing I remember the most was going to the Ben Franklin department store, a five-and-dime, when I was 12 to 15 years old, and getting a cherry Coke," said Tommy Bale, who manages his family's tobacco farms near Horse Cave, Glasgow and Greensburg. "When those (kinds of) stores move out, the town history goes with it."

But now the status of the cave has changed. A new sewer system in 1989 stopped the flow of pollution into Hidden River, the underground stream that flows through the downtown cave. Over the last few years, the stream has revived to the point where even the blind cave fish have returned.

As Hidden River Cave began making its comeback, so, too, did the town.

Now "there's so much exciting stuff going on here it's not like a little town at all," said Horse Cave Mayor Sandra Wilson. "We are (one of the) largest burley tobacco markets, and for a city our size we have some pretty good industries."

Added Matera, the city clerk, "Our goal is getting to a balance of agriculture, tourism and industry."

But "right now, tourism is getting a special focus," Wilson said.

A visitor driving down Horse Cave's Main Street will see a renovated and expanded Horse Cave Theater. The American Cave and Karst Center just opened its museum on caves. (Karst is a type of topography characterized by caves, sinkholes and underground streams flowing through limestone. An official "grand opening" of the center is planned for this summer.)

Visitors strolling Main Street can see a newly landscaped entrance to the cleaned-up Hidden River Cave.

Investment has come to other parts of the community. Next to the Caverna Memorial Hospital, a new, 100-bed, skilled-care nursing home is under construction. West of the interstate is the 28-store Mammoth Cave Factory Outlet Mall that opened in 1991 and continues to expand. On the east side of the interstate is a popular private attraction called Kentucky Down Under. The name is a play on the caves as well as owners Bill and Judy Austin's decision to exhibit animals from her native Australia.

The Austins, in fact, have had a big impact on Horse Cave, even though they have been controversial at times, as they themselves acknowledge.

"People saw us coming downtown, doing things, and perceived it as being dictated to, and resented it," Judy Austin said. "Our time for initiating things is over, I think."

It was Bill Austin, back in 1975, who convinced Warren Hammack to start Horse Cave Theater as a resident professional repertory company. And it was Austin who urged the American Cave Conservation Association to pull up stakes in Richmond, VA., and establish a new national headquarters in Horse Cave. Austin's offers included rent-free buildings to help the theater and the cave group get established.

Hammack, who had been doing stage work in Los Angeles, recalled that selling him on a move to Horse Cave took a little work because "I didn't really see an urgent need to do theater in Horse Cave."

But Hammack, a native of Sturgis, Ky., came back and after some tough years got the theater off the ground. Last week, construction workers put the final touches on the 343-seat theater's $1.3 million expansion and renovation that includes: a new entrance, complete with a lobby featuring windows designed and built by Kentucky craftspeople; a new rehearsal hall and a costume shop; and expanded dressing rooms.

The changes mean the theater will offer 168 performances a year, instead of 99, and a season that will eventually run from March to December.

The theater draws supporters from the region. In the off season, staff members offer classes in acting and play writing.

Equally impressive is the new cave and karst center next door, with its mockup of a cave interior and exhibits on cave history, groundwater and the local cave wars, in which privately operated caves competed fiercely for the tourist dollar.

The American Cave Conservation Association, which will run the center, raised more than $1 million to create it. Although the museum is open, association director Dave Foster said his organization still needs to raise about $500,000 to complete the exhibits. They include a computer program on how to fly blind like a bat and displays that explain cave biology and geology.

The cave association, a national organization, hopes that revenues from the center will fund cave cleanup and conservation efforts around the country. A prime example of what can be done sits beside the museum building—the Hidden River Cave of downtown Horse Cave. Volunteers have cleaned up the cave and built new steps and landings so that museum visitors can take a 30-minute tour that goes right down to Hidden River and some of the turn-of-the-century waterworks still there.

Sue Bunnell, president of Horse Cave State Bank, said that of all the things going on in Horse Cave, the revival of the cave probably excited her the most.

"For 34 years, you could not walk down to the mouth of the cave. All you could do was walk to the fence and look over," she said.

As finishing touches were applied to one block of Main Street, the community turned to another Horse Cave landmark. A few weeks ago, said Mayor Wilson, a woman bought the old Owens Hotel with the intention of restoring it to its former glory.

It is too early to tell if she will succeed, and there is skepticism about whether the building can be saved at all. The second-floor porch fell long ago, some windows are nothing more than openings in the brick, and the roof is gone over parts of the building.

"It's an awful eyesore and I had had hopes at one time that it could be restored," said Gunn, "but to restore it and all the additional costs associated with complying with regulations . . ."

Gunn shook his head.

"It may be cheaper to rebuild. But then we would lose a little of the character we once had."

Big employers (Horse Cave, 1993): Dart Container Corp., 290; Mammoth Cave Factory Outlets, 185; Caverna Independent Schools, 158; Ken Deg Inc., 110; Caverna Memorial Hospital, 78.

Media: Newspapers—Hart County News-Herald (weekly). Television—Cable available.

Education: Caverna Independent Schools, 957 students.

Transportation: Air—Glasgow's Moore Field, a 4,000-foot paved runway, is 11 miles south of Horse Cave; the nearest scheduled service is at Louisville's Standford Field, about 80 miles north of Horse Cave. Rail—CSX Transportation's main line between Louisville and Nashville runs through Horse Cave, Truck—24 common carriers serve Hart County.

Population (1990): Horse Cave, 2,284; Hart County 14,890.

Per capita income (Hart County, 1990): $10,985, or $3,980 under the state average.

Topography: The region's terrain is marked by rolling hills, underground streams, sinkholes and caves, including nearby Mammoth Cave National Park.

FAMOUS FACTS AND FIGURES

Horse Cave is one of three towns that make up the "caveland" east of Mammoth Cave National Park. The others are in Barren County; Cave City, which lies just south of Horse Cave on U.S. 31W, and Park City, a few miles south of Cave City. Once operating as competitors for the tourist dollar, they now work together to lure tourists.

Paris-based abstract painter Joe Downing is an internationally known artist whose work has been exhibited in Europe, North America and Australia. But he frequently goes home to Horse Cave and says it influences his painting. His brother is former Western Kentucky University President Dero Downing.

So how did Horse Cave get its name? According to city clerk Ann Matera, the short answer is that nobody knows, Matera advances the theory that "horse" was used to reflect the large size of the opening to Hidden River Cave. There's also a legend that a settler's horse fell into a sinkhole and several days later was found roaming the caverns under the settlement.

At one point, Horse Cave was also known as Caverna. Although the area had been on maps as Horse Cave since the late 1700s, city leaders opted in 1888 for the Caverna name because it was "more sophisticated." However, the L&N Railroad was bound to call its downtown station "Horse Cave." After 11 years of confusion, city leaders in 1879 voted to change the name back to Horse Cave. Caverna, however, lives on in the name of the consolidated school district and the local hospital.

Drivers headed east out of Horse Cave on Ky. 218 travel the Charles Moran Memorial Highway, honoring the college football coach and baseball umpire who considered Horse Cave his home. Among Moran's achievements; coaching Centre College to its 6-0 victory over Harvard in 1921 and umpiring the 1927, 1929, 1933 and 1939 World Series.

INDIAN GAMING REGULATORY ACT OF 1988

• Mr. INOUYE. Mr. President, I rise today in response to calls that I have

been receiving from some of my colleagues in the House and Senate in an effort to clarify some apparent misconceptions that resulted from remarks made in a press conference that was held yesterday in the Senate television gallery announcing the introduction of a bill to amend the Indian Gaming Regulatory Act of 1988.

While I was not present at the press conference yesterday afternoon in which Members of the Congress announced the introduction of a bill that is titled, the Gaming Integrity and State Law Enforcement Act of 1993, I have now reviewed the proceedings of the conference, and because there were certain statements made that might be misconstrued by those that may be less familiar with the provisions of the Indian Gaming Regulatory Act [IGRA], I welcome this opportunity to clarify the intent of the act and its provisions.

It seems to me that the concerns expressed by my colleagues in the House and Senate yesterday are centered in two major areas: First, a concern that the State and tribal governments are not providing the kind of regulation of class III gaming that is provided in the States of Nevada and New Jersey; and second, a concern that States don't have the means to determine the scope of gaming that will be conducted within each State.

Before addressing each of these concerns and some of the other points that were raised yesterday, I believe it is helpful to review the basic structure of the act as it relates to these concerns.

The Indian Gaming Regulatory Act of 1988 classifies all gaming activities into three classes: First, class I consists of social games that are conducted solely for prizes of minimal value of traditional forms of Indian gaming engaged in as part of or in connection with tribal ceremonies or celebrations; second, class II consists of games of chance commonly known as bingo, including pull-tabs, lotto, punch board, and tip jars; and third, class III consists of all other games not classified in class II.

Class II games are regulated by tribal governments with the oversight of the National Indian Gaming Commission, a Federal agency. Class III games are to be regulated jointly by State and tribal governments pursuant to a tribal-State compact, freely entered into by the State and tribal governments. Under the act, the Department of Justice retains its responsibility to enforce violations of any Federal law associated with the conduct of gaming activities on Indian lands.

I take the time to outline the structure of the act and the respective jurisdiction of tribal, State, and Federal governments, because I believe that there may be some misunderstanding in this area.

My colleagues have expressed when I believe to be a sincerely-held concern that the State and tribal governments are not providing the kind of regulation of class III Indian gaming that is provided by the States of Nevada and New Jersey. They base their concern on discussions they have had with States' attorneys general and with Governors.

I would make two observations in this regard. When the Indian Gaming Regulatory Act was originally under consideration in the Senate, we had proposed that the Federal Government bear the responsibility for the regulation of all Indian gaming, in conjunction with the tribal governments. We took this approach first, because the U.S. Constitution vests plenary authority over the conduct of relations with the Indian nations—not in the States—but in the Federal Government—specifically, in the legislative branch of the U.S. Government. Thus, it was logical to charge the Federal Government with the responsibility for regulating gaming activities on Indian lands.

Second, we took this approach based on an over 200-year history of government-to-government relations between the United States and Indian tribal governments—a relationship that has minimized the involvement of the States in the provision of programs and services to Indian communities, because it was the Federal government that entered into treaties with the Indian Nations and it was the Federal government that has traditionally been viewed as having a trust responsibility for Indian lands and resources.

Our Federal regulatory approach was also premised upon the body of Federal-Indian law and rulings by the Supreme Court over the last 150 years which have clearly established that State laws do not apply on Indian land unless the Congress acts to explicitly provide for the extension of State jurisdiction on Indian lands.

However, during the process of the Congress' deliberations, the States asserted their interest in having some role to play in the regulation of Indian gaming, and the States of Nevada and New Jersey were direct and honest about their desire not to see Federal regulation of Indian gaming activities for fear of the precedent it might set for the Federal regulation of all gaming activities. This view, as reiterated by Congressman BILBRAY of Nevada yesterday, has apparently not changed.

And so, while in our judgment we would have had a Federal regulatory system that would have provided for greater consistency in regulation, with nationwide standards for the conduct of Indian gaming and Federal law enforcement, we acquiesced in the position of the several States, and provided that class III Indian gaming would be regulated by the State and tribal governments.

Now, my colleagues are suggesting that the State and tribal governments are not up to the task, and that the act must be amended to provide a stronger regulatory and law enforcement system that will prevent the infiltration of organized crime in Indian gaming. And, because they are clearly still opposed to any involvement of the Federal Government in this effort, they seem to be suggesting that what the State and tribal governments are charged with doing jointly will be better performed if the States have exclusive authority for the regulation and enforcement of class III gaming.

As chairman of the Committee on Indian Affairs, I do not have any quarrel with the need to assure that a comprehensive regulatory and law enforcement framework is in place at all times to assure the integrity of gaming activities, and I do not believe there is any tribal government in the country that would disagree.

In fact, Vice Chairman MCCAIN and I are currently engaged in a process of dialogue with governors, attorneys general, tribal government leaders, and representatives of the Federal agencies charged with responsibilities under the Indian Gaming Regulatory Act, and I can assure my colleagues that this is one area in which there is strong consensus.

However, having met with nine Governors representing the National Governors Association just last week, I would also note that in several States, the Governors believe that there is a good working relationship between State and tribal law enforcement, as well as in the area of regulation. Thus, while I share my colleagues' concern, I think we are finding more out about the specific needs and concerns of the State and tribal governments in this process, and accordingly, we will be better able to fashion legislation to address those needs.

I have not abandoned the view that there is a role for the Federal Government to serve in the regulation and law enforcement of Indian gaming and, indeed, a few of the Governors have indicated their desire to have Federal involvement because their States are not interested in providing regulation of Indian gaming or law enforcement on Indian lands. It is clear that the Federal law will need to accommodate these variations amongst the States, and that the act can be amended to so provide—not because we as Federal lawmakers impose our judgment on the State and tribal governments, but as a result of the active participation of the State and tribal and Federal governments in developing workable solutions to the regulatory and law enforcement challenges that confront them.

I would make one other observation in this area because of comments that were made yesterday about the number of people involved in regulation and law enforcement in the States of Nevada and New Jersey.

For instance, when one of our colleagues remarked yesterday that the Federal Government has 8 inspectors to regulate gaming in 24 States, while the State of New Jersey has over 1,000 inspectors to regulate gaming in just one State—it might be inferred that we are talking about Federal Government regulation of the kind of class III gaming that is conducted in Nevada and New Jersey. In fact, as I have outlined, the regulation of class III tribal gaming is vested in the States and the tribes, not the Federal Government. So, of course, there are not 1,000 Federal inspectors in each of the 24 States, because the act doesn't vest the Federal Government with authority to regulate class III gaming. As I have indicated, this arrangement—of State and tribal government regulation of class III gaming—was put in the act at the request of the States.

The second concern voiced by my colleagues yesterday had to do with the interaction of State law and the Federal Indian gaming law—a concern that somehow the Federal law has preempted what State law determines to be the scope gaming that is authorized or allowed under State law—a concern that seems to be premised on recent court rulings rather than on the actual words of the statute.

A number of the Members of the Congress yesterday expressed their understanding of the act at the time of its passage; namely, that State law would determine which class III games could be conducted by tribal governments resident in a State. These Members are correct in their understanding of the act's provisions. State law controls and determines which games are conducted in a State by all gaming operators—be they Indian or non-Indian. If States are opposed to the proliferation of any particular type of game, they retain their sovereign authority to amend State law to criminally prohibit the conduct of any specific game. Some States, such as Arizona and Wisconsin, have taken precisely this action in amending their laws and/or State constitution.

The Indian Gaming Regulatory Act does not impose upon any State a requirement that the State must allow tribal governments to conduct a type of game that the State law criminally prohibits. The States are in full control in this area—you don't have to be a lawyer to read and understand the plain language of the statute. State law governs the conduct of class III tribal gaming; it is that simple.

It is also true that the Indian Gaming Regulatory Act authorizes tribal governments to engage in the same kinds of gaming activities that are conducted by others in a State. State laws vary widely in this respect. Some States authorize the conduct of so-called casino nights for charitable purposes—and they authorize the conduct of whatever games they include within that definition—365 days a year—1 day for each different charity.

Other State laws don't authorize certain types of games, but the knowingly look the other way when these games are being conducted in Moose Clubs and Elks Clubs and by police officers' associations. Other States authorize the conduct of some games only for social purposes, but in both instances anyone can see that these games are being actively engaged in—year round—and yet, these same States would take the position that the tribal governments cannot engage in the same activity, because State law either doesn't authorize these games at all or doesn't authorize them for commercial purposes.

These are the difficult areas that we are in the process of tackling in our dialog with State and tribal and Federal officials. I have observed, on more than one occasion, that when Indian people see these games being played by everyone else in the State, we would be hard-pressed to tell them that there is or should be a different rule when it comes to tribal operation of the same games. So we must sort this out within the context of each State's laws.

I also know that there has been much concern about the interpretation some courts have placed on the laws in three of the States, and one court ruling interpreting the law of the State of Wisconsin has become the broad brush with which all state law have been painted. Many States now authorize State lotteries, but not all States authorize other types of class III game; indeed some States have carefully craved out an authorization for a State lottery while criminally prohibiting other class III activities. So just because a State has authorized a lottery clearly does not determine whether other forms of class III gaming will be allowed. This is a determination that is made on a State-by-State basis by the citizens of each State.

Finally, Mr. President, I want to address the statements of my colleagues that suggested that if action isn't taken immediately, there will be a proliferation of gaming in 49 of the 50 States and wall-to-wall gaming from coast to coast.

The Indian Gaming Regulatory Act authorizes gaming activities to be conducted on Indian lands. Indian lands are located in approximately 28 of the 50 States. For Indian gaming to be conducted in any other State, land would have to be taken into trust for the purpose. The act provides that before land can be taken into trust for gaming purposes outside of an Indian reservation, the Governor of the State must concur in the decision to take land into trust for the purpose. Here again, the States are in control.

And so I would suggest to my colleagues that the notion that Indian gaming will soon be found in almost every State of the Union if the Congress doesn't act immediately is in fact a trend that will be largely determined by the citizens of each State, not by the Federal Government or the Indian tribal governments.

Mr. President, I want to commend my colleagues in the House and Senate for the action they announced yesterday. They have added their thoughts to this debate, and thereby have contributed in a more specific way to our understanding of their concerns.

For my part, I intend to reserve judgment on the merits of their proposal pending completion of the process of dialog amongst the State and tribal and Federal governments in which we are now engaged, and after hearing from all interested parties, including other Members of this body and of the House of Representatives.

I thank you, Mr. President, for the appointment to share their views with my esteemed colleagues.●

● Mr. D'AMATO. Mr. President, I would like to commend the President and Secretary Cisneros on the fine team they are assembling at the Department of Housing and Urban Development, and reiterate my strong support for Ms. Aida Alvarez to be Director of the Office of Federal Housing Oversight, Ms. Marilynn Davis for Assistant Secretary of Administration, Mr. Joseph Shuldiner for Assistant Secretary of Public and Indian Housing, Mr. Michael Stegman for Assistant Secretary of Policy Development and Research, and Mr. Andrew Cuomo for Assistant Secretary of Community Planning and Development.

The nominees that we are voting on today bring a wealth of experience and knowledge to the Department. I hope that they will each bring the king of management expertise and innovation that can really make a difference. We must find creative ways to address the problems and needs of our nation's communities and create an environment of success within the Department and for those it serves. I look forward to working with each of the nominees in bringing about the kind of leadership that we so desperately need.

Mr. President, there are enormous challenges lying ahead of the nominees as they undertake to try and meet the current needs of our Nation's communities with limited resources. The individuals that we are voting on today have exemplary records in their fields and exhibit the energy and commitment to play leadership roles in the Department of Housing and Urban Development. I congratulate each of the nominees on their nominations and look forward to working with each of them in the future.●

THE CLEAN FUELS PROGRAM MEANS JOBS AND ECONOMIC DEVELOPMENT IN ADDITION TO ENHANCED AIR QUALITY

• Mr. DASCHLE. Mr. President, economic revitalization and the creation of stable, quality jobs for American workers is the focus of the new administration's legislative agenda. Few disagree with the importance of this objective. Attaining it, however, presents a host of difficult policy and political challenges, as the current debate over the President's economic program clearly demonstrates.

One prerequisite for job creation is the existence of a market. Without a market for the products that workers will produce, the job base cannot be sustained.

One of the world's largest markets is the 120 billion gallons of gasoline sold in the United States each year. The year-round reformulated gasoline [RFG] provisions in title II of the Clean Air Act Amendments of 1990 have set in motion a major transformation of this huge market. By mandating the use of clean-burning alternative fuels, commonly known as oxygenates, Congress has created an opportunity for the Clinton administration to strengthen its economic revitalization program by putting people back to work in environmentally clean, alternative fuel facilities across the country.

Demand for clean burning fuels has already resulted in significant private sector investment in oxygenate manufacturing facilities. These new oxygenated additives range from ethanol produced from corn to MTBE and CNG produced from natural gas. They represent cutting-edge technologies that utilize American raw materials, employ American workers, and pay State and Federal taxes.

These facilities produce domestic fuel additives that not only improve air quality, but also reduce U.S. payments for imported oil and petroleum products, thus leaving more dollars at home for further investment in job creating activity. The program clearly has a positive impact on the entire national economy, not just on the States and communities where physical plants are located.

Establishing incentives sufficient to encourage further private sector investment in these clean fuels production plants will not be easy. We have come a long way in the last 10 years, however, and the foundations that have been laid in new technologies and increased motorist acceptance of the new fuels will allow even faster progress in the years to come.

I was pleased to read in a recent Wall Street Journal article that the Clinton administration is looking to this potential as a means of job creation. On April 13, the Journal reported that, Ms. Laura Tyson, chair of the President's Council of Economic Advisers, "agrees with Mr. GORE that 'on some environmental issues we have underestimated the benefits,' such as new jobs in clean-air technologies."

Other administration officials have also acknowledged the interrelationship between job creation, environmental protection, trade deficit reduction, and economic revitalization. A recent article entitled, "Putting Energy Into America's Economic Recovery," written by several EPA officials led by Mr. Charles L. Gray, Jr., Director of Regulatory Programs and Technology at EPA's Office of Mobile Systems, offers additional insight as to how important this linkage is to the national economic restructuring now underway.

Mr. Gray and his colleagues argue that "one of the major problems facing the United States today is the burgeoning trade deficit" * * * and that "the greatest single contributor to America's trade deficit is its excessive dependence on imported oil, now at 45 percent of U.S. usage." They further note that, "since 1972, the United States has exported $1.3 trillion (in today's dollars) for imported oil, thus accounting almost single-handedly for America's accumulated trade deficit."

While this is indeed a shocking statistic, projections for the future are even more worrisome. The Department of Energy's projections of oil imports and prices indicate that the United States will be paying from $200 to $250 billion per year for imported crude oil and petroleum products, unless we do something to change our course.

Mr. Gray and his coauthors argue that the United States should set the objective of reducing oil imports by 50 percent by the year 2010. They suggest that, "with a permanent commitment to investing in domestic alternatives, money that would otherwise have been exported for imported oil would instead be spent on fuels 'made in the USA,' generating domestic economic growth and employment. Achieving this goal would create and sustain 4–5 million new high quality jobs in the United States."

But the best attribute of an alternative liquid fuels program is its impact on national investment patterns and capital formation. Because alternative fuels like ethanol, methanol, ETBE and MTBE displace imported oil, investments in their production pay rich dividends. According to Mr. Gray, "the most compelling feature of a national investment in domestic fuels is that it can utilize capital that would otherwise be exported and therefore create incremental jobs for the American economy. Even if $1 billion of investment in domestic fuels resulted in just $2 billion less being exported for imported oil, then this would provide twice as much capital and twice as many jobs as an alternative $1 billion expenditure."

As important as this theory is, the reality is even more impressive. Due to the multiplier effect, these investments in domestic transportation fuel alternatives actually ripple through the economy at a benefit ratio estimated by Mr. Gray to be 7 to 1. He writes that "our analyses project a $1 billion investment in domestic transportation fuels will 'save' about $7 billion in payments for imported oil. There are several domestic transportation fuels that can be competitive at low oil prices on a sustainable basis once initial capital investments are made. Thus, such investments can be projected to produce seven times more jobs than traditional government spending" In other words, a $1 billion investment in domestic ethanol, methanol and their ether plants will actually save $7 billion in payments for imported oil.

There are few better ways to spend our dollars when measured in "national return on investment." The result will be cleaner air, an improved balance of payments, new domestic jobs and a reduced national dependence on imported oil.

EPA already estimates that the title II provision of the Clean Air Act could reduce oil imports by at least 500,000 barrels per day by 1995. At an average $20 per barrel, that amounts to over $10 million per day, or over $3.5 billion per year.

The pursuit of cost-effective means of stimulating clean fuel alternatives should be a national policy priority. I ask that Mr. Gray's article be printed in its entirety at the close of my remarks, and I strongly urge my colleagues to carefully consider its message.

The article follows:

PUTTING ENERGY INTO AMERICA'S ECONOMIC RECOVERY

(By Charles L. Gray, Jr., Jeffrey A. Alson, Katherine J. Gold)

Is the American Dream stuck in reverse? The latest news on the American economy continues to give mixed signals. Positive signs such as improved consumer confidence are offset by an increasing federal budget deficit and continued layoffs at many Fortune 500 companies. But underlying these day-to-day pronouncements is the very real possibility that the U.S. economy is in the midst of a historical restructuring. Absent bold leadership and fundamental change, it may be difficult, if not impossible, for the U.S. ever to regain the economic growth of the 1950s and 1960s. Indeed, it is possible that no American generation will ever again achieve a higher standard of living than the preceding one.

There is direct and compelling evidence that a large percentage of the American people have indeed been suffering, long before the recent recession. Since 1972, the average weekly paycheck for nonsupervisory workers has actually declined by 15 percent in real dollars (Figure 1). By comparison, from 1952 through 1972, the real earnings for such workers increased by 40 percent. Had these workers been able to sustain the earnings growth of the earlier period, they would be earning about 50 percent more today than they are.

Despite falling wages for many, most Americans have not perceived a significant loss in their standard of living thanks to a combination of factors. One is simply that, over time, inflation tends to mask reductions in real wages. This effect was particularly pronounced in the high inflation of the late 1970s.

A second factor is that real median family incomes have actually continued to rise, though very modestly, due to a much higher percentage of women in the labor force. The addition of a second worker helped many families to compensate for falling wages. With most women already in the work force, however, a continued drop in real wages will clearly lead to reductions in family incomes and standards of living for millions of Americans.

Finally, and most important, the U.S. financed increased consumption in this period of falling wages and very modest family income growth by going on an unprecedented borrowing binge from the rest of the world. In 1982, the U.S. stood as the largest creditor in the world; i.e., based on historical costs, Americans owned $152 billion more assets in the rest of the world than the rest of the world owned in the U.S.

There was a nearly one-trillion-dollar reversal of this critical measure over the next decade, as by the end of 1990 foreign assets in the U.S. were $757 billion larger than American assets in the rest of the world (by way of comparison, the value of all farmland and farm buildings in the U.S. is estimated to be about $600 billion). In just a few years the U.S. had gone from the world's largest creditor nation to the largest debtor nation. America is mortgaging and selling off its assets to subsidize current consumption.

This unprecedented transfer of wealth overseas is reflected in international trade. The U.S. merchandise trade balance is the annual difference between the value of all U.S. goods exports minus the value of all U.S. goods imports. The current account balance is a broader annual measure that includes the relative value of goods along with that of services, military sales, unilateral transfers, and investment income. Beginning in the late 1970s for merchandise trade and in the early 1980s for the current account, the U.S. began running huge and consistent deficits (Figure 2). By the mid-1980s, both of these deficits were consistently exceeding $100 billion per year.

The general prescription for a country with large trade deficits is currency devaluation. Indeed, in the mid-1980s many economists believed that a weaker dollar would cure the trade deficits. But the trade deficits dropped only slightly in the late 1980s, even as the value of the dollar fell by 35 percent relative to other currencies on a trade-weighted basis. It appears that, absent additional measures, the dollar would have to be considerably weaker to overcome these trade deficits. Yet another significant devaluation of the dollar would have a major negative impact on the American standard of living and would invite foreign investors to take over even more American assets.

The outlook for future U.S. trade deficits appears very bleak. It is unlikely that the deficits will be reduced through productivity improvements or monetary policy. Productivity cannot be expected to significantly improve, given the low levels of savings and investment in the American economy. There would be strong opposition to weakening the dollar even more. Any type of economic recovery, no matter how minor or temporary, will likely send the deficits to record heights as Americans will have increased purchasing power for imports.

The long-term implications of huge, structural trade deficits for the U.S. economy are ominous. "Business as usual" will mean continuing to try to live off the rest of the world by borrowing capital or selling domestic assets. Of course, these trends accelerate the trade deficit (through interest paid on past loans and profits foregone on sold assets) but maintain current consumption. But this situation cannot continue indefinitely.

At some point, foreign lenders will stop financing U.S. consumption, either because they no longer trust the American economy to be profitable or because they wish to consume rather than invest. At this point, the "other shoe drops." When foreign funds dry up, the U.S. will have less money with which to consume and less money with which to invest. The U.S. standard of living would clearly decline, and the potential exists for an economic downturn with impacts on employment and poverty that would dwarf those of recent recessions.

The question is: Why doesn't America do something about the trade deficit while it still has control over its economic destiny? The only solution to falling industrial wages and the transfer of American wealth overseas is to develop new domestic industries that can provide high-quality jobs and at the same time compete with products that are currently imported. The most obvious place to begin is producing domestic transportation fuels to replace imported oil.

It's no secret that one of the major problems facing the United States today is the burgeoning trade deficit. This issue was stressed during the recent presidential campaign, along with the problems of a weak economy, job creation, and health care.

The greatest single contributor to America's trade deficit is its excessive dependence on imported oil, now at 45 percent of U.S. usage. Expenditures for imported oil have been a major trade burden since the mid-1970s, generally accounting for $40 billion to $80 billion per year. Since 1972, the U.S. has exported $1.3 trillion (in today's dollars) for imported oil, thus accounting almost singlehandedly for America's accumulated trade deficit.

Concern about oil supply in the U.S. is a relatively recent phenomenon. The oil industry was born in America; oil fueled the remarkable post-World War II industrial expansion in the U.S.; and in the form of gasoline and diesel, it provided Americans the greatest personal mobility the world has ever seen. Not until the OPEC oil embargo of 1973-74 did the American public become concerned about oil supplies or prices. The reductions of supply from Iran in 1979-80 and from Kuwait and Iraq in 1991, and the resulting price volatilities, have reminded Americans of the risks involved with reliance on a very unstable part of the world for our critical energy needs.

Absent a change in energy or economic policies, U.S. oil import dependence will increase significantly in the future. The U.S. domestic oil industry is shrinking. Domestic production is at its lowest level in more than 30 years. Domestic exploration efforts have dropped sharply—the number of active rigs are down over 80 percent since 1981—and some U.S.-based oil companies now spend more for exploration overseas than they do at home. According to the American Petroleum Institute, total employment in the domestic oil industry has fallen by approximately 400,000 jobs since 1981.

Oil consumption in the U.S. has been relatively flat for several years but will begin to increase again as the economy grows. Transportation accounts for 63 percent of all oil use in the U.S., and Americans continue to buy more cars and drive those cars more miles every year. New car fuel economy in the U.S., which nearly doubled from the mid-1970s to the mid-1980s, has flattened out, and there is strong political opposition to new increases.

The combination of increased consumption and reduced domestic production means that U.S. oil imports will rise significantly in the 1990s. The Department of Energy's National Energy Strategy (NES) projects the U.S. will be importing 55 to 60 percent of its oil by 2000 and nearly two-thirds by 2010. Using NES projections of oil imports and prices, it is expected that the U.S. will be paying about $200 billion per year (in today's dollars) for imported oil by 2010. If one assumes that all this imported oil is refined offshore, a trend which is expected to accelerate, the bill could rise to $250 billion per year.

FUELS FOR AMERICA: REINVESTING IN AMERICA'S FUTURE

Bold action is needed if the U.S. is to avert this potential economic catastrophe. The leadership for change must come from the federal government, as public concern about oil import dependence is at its lowest level in 20 years. While some states, most notably California, have done innovative work in transportation fuels, major policy must emanate from Washington.

Unfortunately, the recent national energy legislation, while containing some admirable provisions, basically ignores import oil dependence—which is, by any measure, more important to the long-term well-being of the American economy than all other energy issues combined. Based on past experience, it is possible that there will be no further serious consideration of energy policy at the federal level until the next embargo, the next price shock, or the next war.

The U.S. should consider the simple and powerful goal of a 50 percent reduction in oil imports by 2010. If this were achieved, the benefits to the American economy would be staggering. With a permanent commitment to investing in domestic alternatives, money that would otherwise have been exported for imported oil would instead be spent on fuels "made in the USA," generating domestic economic growth and employment. Achieving this goal would create and sustain 4-5 million new high-quality jobs in the U.S.—ten times more jobs than have been lost in the oil industry since 1981.

Investment in domestic motor fuel production offers tremendous opportunities for economic growth and job creation based on the simple fact that a dollar spent to produce domestic fuel leads directly to investment and jobs in the U.S., while a dollar spent for imported oil or imported gasoline is not available for investment or jobs creation in the U.S.

While traditional expenditures and investment in the private and public sectors generate employment, the reality is that, other things being equal, increased expenditures in one area mean that there are less funds available for investments in other areas, and the net effect on overall investment or jobs is minimal. The key question always must be: Where do the funds for investment come from?

For example, consider investment in infrastructure such as roads, bridges, water systems, etc. Monies spent on public works projects clearly provide direct employment. But while such investment may make sense from a longterm perspective because of the

potential for improving national productivity, it would not likely lead to a significant increase in net national employment. Funds for such programs are typically raised through higher taxes, additional borrowing, or reductions in other spending, all of which decrease the monies available for job creation elsewhere in the economy. But if the funds for this investment were dollars that would have otherwise left the American economy (i.e., monies that would have been spent on imported products), then there would be both more capital and more jobs in the U.S.

The most compelling feature of a national investment in domestic fuels is that it can utilize capital that would otherwise be exported and therefore create incremental jobs for the American economy. Even if $1 billion of investment in domestic fuels resulted in just $2 billion less being exported for imported oil, then this would provide twice as much capital and twice as many jobs as an alternative $1-billion expenditure.

The reality is actually much more promising. Our analyses project that a $1-billion investment in domestic transportation fuels will "save" about $7 billion in payments for imported oil. There are several domestic transportation fuels that can be competitive at low oil prices on a sustainable basis once initial capital investments are made. Thus, such investments can be projected to produce seven times more jobs than traditional government spending (Figure 3)! These jobs would occur throughout the American economy: directly in oil and natural gas exploration and production and the construction and operation of alternative fuel production plants; indirectly as a result of goods and services used in construction and operation of these facilities; and induced employment through spending of salaries in the local economy, i.e., the "multiplier effect." What alternative investment could possible produce such a "national return on investment?"

WHAT WOULD REPLACE IMPORTED OIL?

The United States is in a stronger position than any other oil-importing country to develop domestic fuel alternatives to imported oil. It is extremely ironic that the U.S. has become so dependent on imported energy. In reality, the U.S. is an energy-rich country with abundant and diverse energy resources, both fossil (oil, natural gas, coal, shale) and non-fossil (hydropower, wind, solar, and probably the largest and most productive agricultural base in the world).

Contary to public perception, the U.S. has never had an "energy crisis." Rather, the nation has a "transportation fuel crisis," given that oil is the only energy commodity imported to any significant degree, that all crude oil is refined to produce transportation fuels, and that transportation is the only oil-consuming sector for which American consumers have no practical alternatives.

The most immediate and clear response to a national program to reduce oil imports would be a revitalization of the U.S. domestic oil industry. The impetus would be provided for both large and small oil companies to resume major exploration efforts in the U.S. and to advance oil recovery techniques. Owners of smaller oil fields and stripper wells would be motivated to maximize oil production as well.

Increased domestic oil production would yield new investment and jobs in the major oil-producing regions of the U.S., such as Texas, Oklahoma, Louisiana, Wyoming, Colorado, California, and Alaska, as well as in industrial cities that provide hardware and materials for oil exploration and production.

Of course, as petroleum is a finite resource, over time the price of petroleum would be expected to rise, and there would be a strong market impetus for the development of alternative fuels produced from domestic feedstocks. There are a number of excellent transportation fuels that can be made from abundant energy resources such as ethanol, methanol, natural gas, electricity, and hydrogen. The subsequent development of a domestic alternative fuels industry would create new investment and employment throughout the country, initially concentrated in the corn fields of the Midwest and at the natural gas wells and coal mines in the Middle Atlantic, Midwest, South, and Mountain regions.

In the past, the insurmountable barrier to U.S. commercialization of new motor fuels has been the simple fact that as long as the entire transportation infrastructure is designed and optimized for petroleum fuels, there is no practical opportunity for new fuels to prove themselves in the marketplace. No investor could possibly consider substantial investment for a new transportation fuel production process, given the reality that oil can still be found and pumped in the Middle East for a few dollars per barrel. Any long-term investment could be driven to bankruptcy by a short-term drop in world oil prices by OPEC.

One of the most attractive features of a national commitment to a U.S. motor fuels industry is that a clear signal would be sent to investors that there will be a market for those alternative fuels that can compete with new domestic oil, and that investors need not fear future price manipulation by OPEC.

So how would the competition between these new fuels and gasoline from U.S. oil supplies play out? Of course, it is impossible to predict this with certainty. Clearly, because of transition costs that will be incurred with new fuels, initial investment would be targeted toward increased utilization of domestic oil. The critical issue is the incremental new oil price at which investments in alternative fuels will be considered.

Whether or not American consumers would be faced with higher motor fuel prices depends on the design of the implementation program. If investment costs were internalized in the price of motor fuel, there would likely be a small fuel price increase.

Studies by a number of public and private researchers have projected that domestic alternative fuels from fossil feedstocks could be competitive with oil prices at about $25/bbl. In the worst case, assuming alternatives cost the equivalent of $5/bbl more than imported oil, the average price of all transportation fuels to consumers would increase by less than five cents per gallon in the year 2000 and by less than ten cents per gallon when the program was fully phased in. As fuel cost is only a small portion of the total cost of owning and operating a car in the U.S., this would add less than $100 to the typical American family's annual fuel bill. Inflation-adjusted fuel cost per mile is lower for American consumers today than ever before. A slight increase in fuel cost is a small "price to pay" for a program that can help put the American economy on the road to long-term recovery.

(Endnote: The views expressed herein are those of the authors and do not necessarily represent the views of the U.S. Environmental Protection Agency.)●

A GRATEFUL NATION REMEMBERS

● Mr. D'AMATO. Mr. President I rise today, just before Memorial Day, to stand and remember a special group of Americans who fought for freedom in World War II and are still fighting today. Mr. President, I am talking about the Tuskegee airmen. A group of my constituents will be remembering and honoring the Tuskegee airmen at a reunion of its members and supporters on Saturday, June 12, at 12 noon at the 56th Fighter Group Restaurant.

The Tuskegee Airmen were the Nation's first African-American fighter squadron that broke the military segregation barrier some 50 years ago. During World War II nearly 1,000 black military aviators were trained at an isolated training complex near the town of Tuskegee, AL, and at the Tuskegee Institute. Four hundred and fifty black fighter pilots under the command of Col. Benjamin O. Davis, Jr., fought in the aerial war over North Africa, Sicily, and Europe. They flew P–40, P–39, P–47, and P–51 fighters. These airmen came home with 150 Distinguished Flying Crosses, Legions of Merit, and the Red Star of Yugoslavia.

Our remembrance includes our fallen veterans and the many pilots who distinguished themselves during World War II. Events, such as the reunion of the Tuskegee airmen, offer our Nation the opportunity to say "a grateful nation remembers." It is important that we remember the sacrifices our veterans made 50 years ago. Such sacrifices have helped lead us to victory; a victory that will always be remembered.

Today, the Tuskegee Airmen organization has established a nonprofit national organization with a primary mission of motivating and inspiring young Americans to become full participants in the political, social, and economic mainstreams of American society. The group also sponsors a scholarship program for young people.

Mr. President, I ask my colleagues to join me in honoring this very special group of Americans as they come together to reminisce and remember.●

EVENTS IN GUATEMALA

● Mr. GRASSLEY. Mr. President, 2 days ago, the powerful movement toward democracy in Central and Latin America took a step backwards as the President of Guatemala, Jorge Antonio Serrano Elias, took it upon himself to dissolve the Congress and the Supreme Court of Guatemala, and suspend such basic freedoms as the right of free speech and assembly.

I am speaking today to encourage President Clinton to take action to help return Guatemala to the democratic process and reverse the coup which President Serrano has perpetrated upon his people. In addition, I encourage President Serrano to recognize his mistake and reverse his action.

It is my understanding that the newspapers in Guatemala are not being published and the buildings are sur-

rounded by government troops. In addition, the radio and television media are being gagged by the Guatemalan authorities.

Furthermore, according to news reports, the homes of the Attorney General and the leaders of the Congress and Supreme Court have been surrounded by security forces. In addition, police have surrounded other key institutions, the telephone company, the homes of congressional leaders, and Guatemala's human rights ombudsman, who is a frequent critic of the government.

I am moved by the fact that despite this harsh effort to gag and limit the freedoms of individuals, many in Guatemala, at great risk to themselves, continue to fight for a return to democracy, constitutional law, and respect for human rights.

One such example of this is the Center for the Defense of the Constitution. This center was founded by Guatemalans last August as a private, academic, nonprofit, nonpartisan organization for the sole purpose of defending the democratic and constitutional traditions of Guatemala. The organization is made up of the best legal and constitutional minds in Guatemala and has representation from many different political ideologies. Many former Foreign Ministers of Guatemala and Ambassadors from Guatemala to the United States, United Nations and the Organization of American States are serving on this organization's board of directors.

Just hours after the coup, the Center for the Defense of the Constitution in Guatemala issued a declaration that President Serrano was wrong in his assertion that his actions were consistent with the Constitution and that President Serrano must take responsibility for violating the fundamental law of the State, the Constitution. Apparently, the Guatemalan Bar Association has issued a similar statement. Furthermore, in its last act before being abolished by President Serrano and surrounded by military forces, the Constitutional Court declared that the actions of President Serrano were unconstitutional.

It is my understanding that the Organization of American States is sending a delegation to Guatemala in the next few days. This delegation should express in the strongest terms that this coup shall not be allowed to stand and that it is in President Serrano's best interest to change the course he has embarked upon.

Mr. President, we must not let these brave Guatemalan freedom fighter voices be unheard. We must take action to help steer Guatemala back toward the community of free and democratic nations.●

PEABODY AWARD TO KNME–TV AND INSTITUTE OF AMERICAN INDIAN ARTS FOR SURVIVING "COLUMBUS" DOCUMENTARY

● Mr. BINGAMAN. Mr. President, I rise with great pride today to commend two exceptional institutions in my home State of New Mexico: the Institute of American Indian Arts in Santa Fe and KNME–TV in Albuquerque. Earlier this month, IAIA and KNME–TV received the prestigious George Foster Peabody Award for their collaborative work on "Surviving Columbus," a unique and insightful documentary marking the arrival of Christopher Columbus in the Americas and the subsequent impact of European involvement in Indian culture. Told from the perspective of the Pueblo Indian people, "Surviving Columbus" is, in the words of the 1992 Peabody judges, "simultaneously an important local document and an instructional film for future generations."

This remarkable recounting of 15th and 16th-century history—and 450 years of contact—illustrates the dramatic changes in Pueblo society and the unyielding endurance of the Pueblo people and their culture. The program, which relies heavily on oral tradition and generations of stories told by Indians throughout Arizona and New Mexico, also focuses attention on Pueblo culture today, illustrating the long-term impact of the Europeans upon these peoples and the impassioned pride which keeps their traditions alive.

I am proud of this documentary for several reasons. First, "Surviving Columbus" marks the cooperative production efforts of two important and unique New Mexico institutions devoted to the art. By pooling resources, KNME–TV and IAIA were able to use narratives of Pueblo elders, interviews with Pueblo scholars and leaders, archival photographs, and historical accounts to illustrate the story of the Pueblo Indian's survival and struggle to control their own destiny. With funding provided by the New Mexico Endowment for the Humanities, the Corporation for Public Broadcasting, the Public Broadcasting Service, the Rockefeller Foundation, and the Native American Public Broadcasting Consortium, KNME–TV and IAIA were able to tell the emotional story of the Pueblo survival through turmoil and conquest.

Second, I recognize the cooperation and participation of the Pueblo Indians of New Mexico. As with most of Pueblo history, accounts of the Spanish arrival and European influence are primarily collected as an oral history. "Surviving Columbus" focuses on the Southwestern Pueblo Indians because, of all North American Indians, they have had the longest continuous contact with Europeans. the documentary not only tells a story of the past, but looks at the Pueblo peoples of today, their continuing struggle to determine their own lives, and the strength they draw from their long history of challenge and perseverance. From this illustration of the Pueblo peoples' strength, we discovered the importance of living a life in balance, one which recognizes the need for simplicity and our connection with the earth and time.

Finally, I am proud that these two New Mexico institutions, KNME–TV and IAIA, had the courage to challenge the conventional interpretation of American history and the impact of Columbus. Our traditional school textbooks speak of an uncivilized land which Columbus discovered and explored. However, the Indians tell a much different story, one of conquest and enslavement. "History is always told from the standpoint of the conquerors," author, anthropologist, and San Juan Pueblo Indian Alfonso Ortiz points out. "Hence, people who are conquered can't trust history. It's not their history; it's the history of their conquerors." In keeping with their oral traditions, the program is visually and audibly poetic. The story is finally told in the voice of the Pueblo peoples. Interestingly, "Surviving Columbus" points out that many of the troubles facing the Pueblo Indians during the 16th century still plaque them today—economics, land, religion, sovereignty, and self-determination.

Last year, we marked the 500th anniversary of Columbus' arrival in the New World. This year, I encourage everyone to explore new perspectives of this event. As script consultant and Santa Clara Pueblo native Rina Swintzell expressed,

> There are many worlds that exist in the universe and the Pueblo Indian world was a world that was very different from the Europeans in terms of values and lifestyle. I think we need to be aware that human beings do have alternatives in ways of thinking, in ways of living.

KNME–TV and the Institute of American Indian Arts should be commended for presenting the public with an alternative perspective of New Mexican history. Throughout the State, citizens can be proud of this cooperative effort. "Surviving Columbus"' is a work that leaves a lasting impression on all those who view it. Congratulations to all those involved with the project, a job well done.●

FOREIGN RELATIONS COMMITTEE HEARINGS ON NORTHERN IRELAND

● Mr. DODD. Mr. President, about 2 months ago, on St. Patrick's Day, I sent a letter to the distinguished chairman of the Foreign Relations Committee, Senator PELL, and the distinguished chairman of the European Affairs Subcommittee, Senator BIDEN.

The purpose of this letter which was signed by six of my Senate colleagues, was to request that the Foreign Relations Committee set aside some time this year to examine the conflict in Northern Ireland.

This issue is one in which I have long held an interest and one that, in my view, demands our immediate and lasting attention. Since 1969, the 6 counties of Northern Ireland have been the site of a bloody and protracted conflict that has claimed over 3,000 lives and left more than 30,000 people injured. This tragic state of affairs is only the latest stage in an age-old conflict that is rooted in centuries of ethnic, political, and religious hostility.

Mr. President, I have long believed that as we seek to build a new international order in the wake of the cold war, we must find a way to address regional conflicts like the one in Northern Ireland. For this reason, I was greatly pleased with both the timeliness and the manner in which my St. Patrick's Day inquiry was answered. On that very afternoon I joined both Senator PELL and Senator BIDEN in announcing that for the first time since the outbreak of the troubles in 1969—indeed for the first time since Northern Ireland came into existence more than 70 years ago—the Foreign Relations Committee will hold hearings on this very important issue.

Mr. President, the conflict in Northern Ireland has taken an extensive and lasting toll on participant and bystander alike. But among the innocent victims of this conflict, honesty and open discussion surely must rank as casualties as well. Regrettably, most of what we know about Northern Ireland is summed up only by stark headlines and barren statistics; our own lack of initiative and the clamorous rhetoric of both sides conspire to deny us a deeper understanding of the truth.

In its present form, the conflict in Northern Ireland is a highly complicated affair, shaped and repeatedly fueled by a widespread collection of forces. Clandestine paramilitary organizations like the IRA carelessly murder innocent civilians in their bloody and relentless war against British rule. Loyalist paramilitary groups carry out violent vigilante attacks against suspected IRA supporters, allegedly with the covert support of the British Government. Human rights violations on the part of British security forces defy the sanctity of justice and due process. And a stagnant and inequitable rate of unemployment fans the flames of cynicism and hostility.

Mr. President, in the past several weeks a number of individuals and organizations have contacted my office to inquire as to when these hearings will begin. Ultimately this is a decision that will be made by the chairman of the Foreign Relations Committee, Senator PELL, and the chairman of the European Affairs Subcommittee, Senator BIDEN. But in my view, this is a matter that cannot and must not be hurried.

In fact, given the many items pressing for time on the committee's agenda, it seems to me the best time for those hearings may prove to be at some point after the August break. In the meantime, I would welcome the comments and suggestions of all those who have a special interest in these hearings, keeping in mind that the goal is to educate the public, not proselytize it.

Mr. President, this is a historic time. Not once in the history of Northern Ireland has the Foreign Relations Committee held hearings on this tragic and long-running conflict. My hope is that these hearings will advance our understanding and debate on this unfolding story and the many issues surrounding it—and perhaps in some small measure even hasten the day when the two communities of Northern Ireland can find common ground.

Mr. President, I ask that the text of the letter I sent on St. Patrick's Day, cosigned by six other Senators, be placed in the RECORD at this time.

The letter follows:

U.S. SENATE,
Washington, DC, March 17, 1993.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to request that the Senate Foreign Relations Committee hold hearings on the issue of Northern Ireland.

Ever since its creation in 1922, Northern Ireland has been torn between two powerful opposing forces: a Protestant population that mainly favors political unification with Great Britain and a Catholic population that generally favors political ties with the Irish Republic. The most recent phase of violence erupted in 1969, when British troops were sent to Northern Ireland, and peaked in 1972, the year direct rule was imposed by London. In all, over 3,000 people have lost their lives in "the Troubles."

Today the challenges facing the people of Northern Ireland are enormous. Clandestine paramilitary organizations like the IRA wage a bloody and relentless war against British rule. Loyalist paramilitary groups carry out vigilante attacks against suspected IRA supporters. Economic stagnation and a high rate of unemployment continue to fan the flames of hostility and resentment. And human rights violations on the part of British security forces weaken the local populace's faith in the abiding sanctity of justice and due process.

If the rule of law and the sanctity of human rights are to be the building blocks for a new international order, then the United States can no longer turn a blind eye toward this conflict. And yet the proper role of the United States is today a subject for wide-ranging debate. Various observers have suggested several ways in which we could contribute, ranging from personal diplomacy to the sending of a peace envoy to the enforcement of the MacBride Principles. Senate hearings would help us evaluate the relative merit of these and other recommendations.

In our view, hearings would hold an additional—and perhaps more important—purpose: to help our nation come to grips with the epidemic of violence and hatred that has plagued the people of Ulster for the better part of a century. Such an undertaking can only strengthen our sense of the world we live in and the many disparate forces that shape it. And it would be a further step toward building a common understanding of the role of human rights and equal justice in this new international order.

In this time of dramatic and unprecedented change about the globe, the continuing difficulties of a political settlement in Northern Ireland merit our attention. Accordingly, we mark the occasion of this year's St. Patrick's Day by respectfully asking that the Foreign Relations Committee hold hearings on the subject of Northern Ireland. We appreciate your attention to this request and we look forward to the benefit of your reply.

Sincerely,

Dennis DeConcini, Alfonse M. D'Amato, Harris Wofford, Carol Moseley-Braun, Christopher J. Dodd, Paul Wellstone, Donald W. Riegle, Jr.●

FEDERAL MANDATES RELIEF ACT

● Mr. GRASSLEY. Mr. President, too often in the past Congress has seen fit to pass broad-ranging legislative mandates. These mandates acquire a life of their own as they filter through the system of regulation and implementation. But in the end they fall upon our local elected officials, those officials who are closest to the people. And when they fall to the local level for implementation, they take with them the heavy financial burden that often accompanies Federal mandates.

In response to this problem, I have joined with my colleague Senator GREGG, in cosponsoring S. 648, the Federal Mandates Relief Act of 1993.

I do not claim that the Federal Government has no role to play in setting national standards, nor do I claim that there is never a need for Federal regulation. What I question is the lack of direct accountability that has grown in the system. When Congress feels compelled to force a mandate upon the Governors and mayors and local county officials of our Nation, we should feel just as compelled to provide the funding to implement the mandate. For if we, as a Congress, feel that regulations are essential enough to mandate, then surely it follows that they are essential enough to pay for. I would also hope that meeting these financial obligations might make Congress think twice before legislating expensive new mandates.

Mr. President, for too long, we have enjoyed our cake and eaten it too * * * at the expense of local officials. We have satisfied those interests who have called for new legislation while trying to avoid the wrath of the American taxpayer by shifting the costs of implementation to the State and local level.

Today we face severe budget deficits, due in large part to the fact that Congress has been unwilling to make the difficult choices in regard to Federal spending. However, it is not an accept-

able answer to shift the financial burden for our decisions to others. I urge my colleagues support for this important legislation.●

THE CENTENNIAL CELEBRATION OF EDER CORPORATION

● Mr. KOHL. Mr. President, the Eder Corp. in Milwaukee, WI, is celebrating its 100th anniversary this year. When people reach their 100th birthday, they try to get Willard Scott to mention their names and show their pictures on the "Today Show." Some brief remarks in the CONGRESSIONAL RECORD are, I fear, a poor substitute for that kind of recognition, but it is the best I can do.

The Eder Corp. of Milwaukee, WI, is celebrating its 100th anniversary as an ongoing enterprise. More than that, they are celebrating 100 years of family ownership and operation.

One of the things the Eder Corp. is doing to celebrate this centennial is providing people with American flags at a reduced cost when they bring in an older flag to be retired. That is typical of the kind of spirit displayed by the company, its owners, and its employees. They see their business as part of the community, part of the country. They want to share their success with the people who have made it possible. That spirit is sure to guarantee that the Eder Corp. will be around to celebrate its 200th anniversary in 2093.●

TRIBUTE TO BARRY R. FIERST

● Mr. METZENBAUM. Mr. President, I rise today to say a few words in behalf of a man who has committed his career to serving adults with disabilities, Barry R. Fierst.

Mr. Fierst has served for the past 9 years as the executive director of the Jewish Foundation for Group Homes in Rockville, MD. Established in 1983, the Jewish Foundation for Group Homes is a community residential program serving adults with developmental disabilities and chronic mental illness. Now, 13 group homes, an apartment program, and more than 100 residents later, Mr. Fierst is leaving the foundation. I am certain he will be missed because he believed that dignity is the birthright of every individual regardless of disability. His leadership enabled residents, staff members, and volunteers of the Jewish Foundation to flourish beyond their own expectations and the expectations of those around them. Mr. Fierst's integrity and commitment built a unique and vibrant service system for individuals with disabilities throughout the Washington community. Under his exceptional leadership, the Jewish Foundation for Group Homes became a nationally renowned model for serving individuals with disabilities as dignified, integrated, and valued members of the community.

As Mr. Fierst leaves the Jewish Foundation for Group Homes, I commend him for his wonderful work and wish him every success for the future.●

MEMORIAL DAY TRIBUTE TO THE HMONG

● Mr. KOHL. Mr. President, on Memorial Day, when the United States honors those Americans who gave their lives in the defense of freedom, it is fitting that we also honor our allies who supported the efforts of the United States during the Vietnam war.

The Hmong, as a people, originated more than 4,000 years ago in the central part of what today is China. They lived in a prosperous country, the Kingdom of the Yellow River, established on the sides of the Hoang Ho River. However, as a result of invasion, war, and persecution by the dominant society, the Hmong chose to live in isolation and poverty in order to preserve their 1,000-year-old traditions. They became a hill tribe known in Southeast Asia and the world over.

At the beginning of the 19th century, the Hmong migrated from China into Laos and, over the years, became one of the three main pillars of the Laotian nation.

During the American war in Indochina, the Hmong joined forces with the United States to combat the Communist North Vietnamese forces. In addition, the Hmong soldiers were a vital component of the secret war in Laos, 1962–75. Because of their association with the United States Government, tens of thousands of Hmong were forced to leave Laos after the takeover of Indochina by the Communists in 1975. And in 1993, out of the approximately 130,000 Hmong refugees who have been resettled in the United States, 26,000 reside in my home State of Wisconsin.

The Hmong suffered severe losses during the war and received little recognition for their bravery and support. They are the forgotten soldiers, and their struggle continues today here and throughout the world. These individuals paid a great price and they deserve our honor and respect on this Memorial Day.●

MINING LAW REFORM

● Mr. DECONCINI. Mr. President, Tuesday night the Senate agreed by unanimous consent to pass S. 775, Senator CRAIG'S Hardrock Mining Reform Act of 1993. I rise today to speak on the economic importance of the mining industry to the State of Arizona and the importance of balancing environmental interests with maintaining the economic viability of the industry during the House-Senate conference committee deliberations on mining law reform.

For a number of years both the House and the Senate have held hearings and debated the merits of reforming the 1872 mining law. S. 775, the bill that was passed by the Senate, will fundamentally change the regulations governing mining on public lands. It will institute a 2-percent minemouth, or a form of net royalty, and require certain planning and reclamation standards, among other provisions.

This bill represents some significant reforms in the 1872 mining law. There are also other mining law reform proposals that have been introduced in the House by Congressman RAHALL and in the Senate by Senator BUMPERS that would make even further, more drastic changes to the present mining law. Senator JOHNSTON, chairman of the Energy and Natural Resources Committee, has indicated that S. 775, the Craig bill, will only be a vehicle to facilitate a conference on mining law reform. Therefore, Mr. President, the House-Senate conference committee is likely to negotiate an agreement somewhere in between the widely divergent views presented in the Craig bill and the Bumpers and Rahall bills. The nature and extent of the changes the conference may agree to beyond Senator CRAIG'S proposals could have a potentially severe impact on thousands of jobs in Arizona. Arizona was the second-largest producer of nonfuel minerals in the Nation in 1992, with an estimated value of more than $2.8 billion.

On numerous occasions, President Clinton has emphasized that the economy and jobs are of enormous importance to the future of this country. I could not agree with the President more. In Arizona, and throughout the West, a strong mining industry is essential to achieving the President's goals of stimulating the economy and maintaining the job base. The President has also spoken of equitably balancing the competing interests of the environmental community and industry regarding the use of public lands. Again, I agree with the President that balance is the key to resolving this issue fairly and achieving economic stability for future generations.

During consideration of the budget resolution, the President agreed with Western Democrats that mining law reform could not be dealt with in the context of revenues and deserved a much more thoughtful, comprehensive approach. I would hope that the conferees will keep this in mind during negotiations on this reform.

Mr. President, Arizona and this Nation have a large stake in the outcome of reform of the 1872 mining law. Arizona produces 60 percent of the Nation's copper, which is of strategic importance, and is the second-largest mineral producer in the United States. Drastic reforms in the mining law that do not take into account maintaining the economic viability of the industry and that may inhibit future mineral production will have impacts that

reach far beyond Arizona. In Arizona, many communities, like Douglas and Morenci, depend on jobs directly and indirectly related to the mining industry and industry payments to local governments for their existence. The following statistics reflect the vital nature of the mining industry to Arizona's economy:

Over 14,000 people are directly employed in Arizona by the mining industry. Copper mining employs 12,100 people.

Over 70,000 Arizona residents have jobs as a result of the combined direct and indirect contributions from mining to personal, business, and government income in Arizona. This includes retail sales, government, construction, and teaching jobs.

State and local governments in Arizona received more than $400 million in revenues either directly or indirectly from the mining industry in 1992. More than 7,000 government employees received their salaries because of taxes paid by the industry—over 4,000 of which were teachers.

The mining industry in Arizona had a $6.6 billion impact on Arizona's economy in 1992.

Federal revenues from Arizona copper totaled $88 million. This is a return of over $500 an acre each year for Federal lands in Arizona converted to mine ownership and utilized under the 1872 mining law.

Arizona producers exported 454 million dollars' worth of various copper products overseas, mostly to Japan and the Pacific rim.

Mr. President, as these facts illustrate, the mining industry is of paramount importance to the country as well as the people of Arizona. We must take these vital economic factors into account in negotiating mining law reforms or we risk putting people out of work, closing schools, and uprooting families.

Options under consideration vary widely but certain provisions of S. 257, Senator BUMPER's bill, would create major problems for the mining industry. Title II of S. 257 would create a regulatory environment of such enormous proportions and unachievable requirements that new mines would no longer be able to pass the regulatory standards established by title II. In addition, title II may require many existing mines to shut down due to their inability to meet the regulatory standards called for under the bill. This does not represent a practical approach to dealing with the mining issue. A balance between environmental interests and mining interests can and must be achieved. Responsible reform is possible—I believe in it and I support it—but it is necessary to be aware of all sides of the issue as negotiations begin.

Careful and skillful crafting of mining law reform will ensure that jobs and the environment are protected. When the final mining legislation is developed, the social impact on communities and families must be minimized, positive steps for the environment must be achieved, and economic issues must be considered. If this is not achieved, then this body has failed an important test—that of developing legislation which has positive impacts on jobs and the environment.

Mr. President, I know this sounds like an impossible task in light of the overwhelming concerns of groups on all sides of the issue. However, today I am issuing a challenge to the members of the conference to achieve the necessary balance, between protecting jobs and protecting the environment. The goals of maintaining jobs related to the mining industry and protecting the environment are not mutually exclusive.

Mr. President, I urge my colleagues to take into account all sides of the tough issue of reforming the 1872 mining law. The livelihoods of thousands of people in the West are dependent on the decisions that we make.●

PRECISION TECHNOLOGY INC.

● Mr. McCAIN. Mr. President, I was extremely pleased to hear from the U.S. Small Business Administration about the selection of Precision Technology Inc. as Regional Small Business Subcontractor of the Year. I would like to congratulate them on being chosen.

Mr. President, this is an outstanding achievement for an Arizona company, Precision Technology Inc., and one that I believe the Senate should take note of. Precision Technology's commitment to excellence sets a fine example and a goal for all businesses to achieve.

Again Mr. President, I would like to extend heartfelt congratulations to Precision Technology for receiving this most prestigious award, and my best wishes for their continued success.●

REFORMING AMERICA'S FOOD SAFETY INSPECTION SYSTEM

● Mr. DURENBERGER. Mr. President, I rise today to call attention to what is becoming an increasingly dangerous threat to the Nation's health—America's antiquated and inadequate food inspection system.

I ask that an article printed in the May 24 issue of the Washington Post regarding an outbreak of food-born illness in Ohio be printed in the RECORD. Over the past 10 days, more than 300 diners at a Dayton, OH, restaurant have contracted symptoms of food poisoning, and a 7-year-old child remains hospitalized.

This incident is only the latest in what has become a series of injuries to the public health due to unsafe food. Americans are losing confidence in the Federal food safety inspection systems that are expected to prevent these kinds of tragedies. The Federal food safety and inspection systems are failing in their established goals because the divided system of inspection between USDA, FDA, Commerce, and EPA wastes scarce resources.

As the GAO reports in their June 1992 report "Food Safety and Quality", "* * * as a result of the inconsistent and duplicative nature of the Federal food safety inspection system * * * foods that pose similar health risks to the public are subject to significantly different inspection approaches, and resources cannot be reallocated among agencies to improve the consistency of inspections of food products or processes. Furthermore, the agencies' actions to protect their own interests prevent the coordination needed to address public health concerns associated with emerging food safety issues and the public's changing consumption patterns."

When the Senate returns from the Memorial Day recess, I will introduce a comprehensive plan to bring the country's food safety inspection system into the 21st century. By consolidating all food safety inspection duties in an independent food safety inspection agency, we can replace today's jumble of conflicting regulations, low standards, and institutional infighting with a streamlined, efficient system that will restore consumers' confidence in the quality of the American food supply.

This bill, the Food Safety and Inspection Agency Act of 1993 would be good for farmers, food processors, and consumers. I urge my colleagues to cosponsor this legislation when I introduce it.

The article follows:

PIZZA PATRONS STRICKEN

DAYTON, OH.—More than 300 patrons of a pizza restaurant have been stricken with symptoms of food poisoning over the last 10 days and five went to the hospital, a health official said.

One 7-year-old boy remained hospitalized. The other victims were admitted for up to two days, said Bill Wharton, a spokesman for the Montgomery County health district.

At least 324 customers of Milano's Pizzeria, situated near the University of Dayton, have reported suffering symptoms including diarrhea, cramps and vomiting from May 14 onward, Wharton said.

Owner Ron Woods closed the restaurant Friday and agreed not to reopen until officials get back results of tests on food and employees, Wharton said.

The restaurant has been cleaned and all food in it has been destroyed, Wharton said.●

A BREAKTHROUGH ON CYSTIC FIBROSIS

● Mr. KOHL. Mr. President, all of us have spent a good deal of time thinking and talking about health care reform. We do not spend nearly as much time learning about advances in health care, about the results of research, about the kind of treatment that might be pro-

vided under a reformed health care system. That, of course, is not entirely our fault: Most of us are not scientists and the popular press does not carry many detailed reports on medical research.

But recently there was an article in Newsweek magazine by Geoffrey Cowley describing new advances in the treatment of cystic fibrosis, a disease that affects over 30,000 young Americans. The article describes a new method of treatment which may actually constitute a cure for the disease. Beyond the specific discussion of the new treatment method, the article makes another point which I would call to the attention of my colleagues. The article illustrates the relationship between research and practical results; it also makes it clear that the Federal Government plays an important role in supporting research—research which may ultimately result in cures for diseases which now plague too many people.

Mr. President, I commend this article to my colleagues and ask that the text of the article, "Closing In on Cystic Fibrosis," appear in the RECORD at the conclusion of these remarks.

The article follows:

[From Newsweek, May 3, 1993]

CLOSING IN ON CYSTIC FIBROSIS

The world marveled four years ago when a team of Canadian and American gene hunters announced they'd pinpointed the mutation responsible for the West's most devastating hereditary disease. The discovery of the cystic-fibrosis gene gave doctors a powerful new tool for diagnosing the fatal respiratory disorder, even in developing embryos. And it raised the prospect of better treatments for the nation's 30,000 young sufferers. This month that prospect started panning out. On Saturday morning, April 17, a 23-year-old man with advanced cystic fibrosis became the first patient to receive a treatment aimed at correcting the disorder at its source. In an audacious experiment, doctors at the National Heart, Lung and Blood Institute (NHLBI) in Bethesda, Md., tried to install a therapeutic gene in the cells of the young man's lungs. The patient received only a trial dose of the gene-based therapy, too little to profoundly affect his condition. But if the experiment goes as planned, it could very well herald a cure. "For the first time, we're not just treating symptoms," says Dr. Robert Beall, the Cystic Fibrosis Foundation's vice president for medical affairs. "We're getting at the root cause of the disease."

In the United States, deaths due to hereditary illness takes a greater toll than CF. One in 2,500 newborns is afflicted, and most die before turning 30. Some 12 million Americans—5 percent of the population—carry a single copy of the culpable gene, but only those with two copies develop the disease. The dynamics of cystic fibrosis are no mystery. In healthy people, a protein called CFTR provides a channel by which chloride (a component of salt) can pass in and out of cells. CF sufferers have a defective copy of the gene that normally enables cells to construct that channel (the so-called CFTR gene). As a result, salt accumulates in the cells lining the lungs and digestive tissues, turning the surrounding mucus into a sticky, suffocating paste. Slapping and pounding can help dislodge mucus from blocked airways, and antibiotics can cantrol the incessant respiratory infections. But nothing stops the gradual destruction of the victims' lungs.

Until 1989, the prospects for arresting this process seemed dim, but the discovery of the mutation responsible for cystic fibrosis raised a tantalizing possibility: if someone could synthesize normal copies of the CFTR gene and transfer them into a patient's wayward cells, then the cells might start functioning properly.

In 1990, two scientific teams showed that the process worked in a test tube. In concurrent experiments, Dr. James Wilson of the University of Michigan and Dr. Michael Welsh of the University of Iowa succeeded at splicing the normal CFTR gene into disabled cold viruses. The viruses were essential sterile and theoretically incapable of causing illness. But they made ideal delivery vehicles, for they retained their ability to glom onto respiratory cells and deposit their genetic material inside. As everyone had hoped, defective cells turned healthy when infected in a test tube. And when other lab studies showed that the treatment was safe in rats and monkeys, researchers started seeking government approval for a human trial.

Last December, a National Institutes of Health advisory panel endorsed proposals from three teams—Wilson's, Welsh's, and one led by Dr. Ronald Crystal of the NHLBI—and this month Crystal became the first to treat a patient. The initial volunteer received just over four teaspoons of medication through nose drops and a bronchoscope. A second patient started the same regimen last week, and Crystal plans to treat eight more.

Along the way, he hopes to answer several basis questions. The most pressing is whether the treatment is safe; he needs to prove that the virus won't somehow cause disease or inflammation and that it won't spread its cargo beyond the respiratory system. In addition, he wants to determine how readily patient's cells will respond to the treatment, and for how long. If the treatment works, cells that acquire the new gene will manufacture their own chloride channels and start excreting salt normally. But no one knows what dose of virus is needed to infect a given number of cells or just how long the therapeutic effect will last. Because the cells that line the tissues are continually replaced, the effect will not be permanent. But Crystal hopes that at high doses, each round of treatment will bring a couple of months' relief. There's also a danger that after repeated exposures, patients' immune systems will learn to foil the virus before it can do its job. That problem hasn't surfaced in animal studies, and Crystal believes that he can administer the virus in large enough doses to survive even a robust immune reaction.

In a sense, this bold experiment will succeed even if it fails. Scientists have already shown that CF sufferers' cells will respond to gene therapy. The challenge is simply to find a practical way of applying it. "I chose this virus because it's been studied," Crystal says, "but it's not the only possible system." Scientists are already conducting lab studies with other delivery vehicles—some based not on viruses but on microscopic fat capsules known as liposomes—and optimism abounds. "What we're doing now may be very different from what we'll be doing a couple of years from now," says Beall of the Cystic Fibrosis Foundation. If the past few years are any indication, that's putting it mildly.●

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m. on Friday, May 28; that following the prayer, the Journal of proceedings be approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes, with the following Senators recognized for the time limits specified: Senators GRASSLEY, MURRAY, and GRAMM of Texas for up to 10 minutes, with Senator LOTT recognized for up to 45 minutes, and Senator LIEBERMAN for up to 5 minutes; and that at 10 a.m., the Senate resume consideration of S. 3.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection.

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

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 11:02 p.m., recessed until Friday, May 28, 1993, at 8:45 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, May 27, 1993*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With gratitude and with obligation, we express thanks for this day and for the opportunity to accept the responsibilities that are given us. In spite of contention and conflict, we earnestly pray that we will be worthy of the high calling we have received to do the works of justice, to be faithful in service to others, and to earnestly and honestly seek to be the people You would have us be. May Your blessing, O gracious God, that is with us in all the moments of life, be with us this day and all our days. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electric device, and there were—yeas 244, nays 160, answered "present" 1, not voting 27, as follows:

[Roll No. 194]

YEAS—244

Abercrombie	Bishop	Coleman
Ackerman	Blackwell	Collins (IL)
Andrews (ME)	Bonior	Collins (MI)
Andrews (NJ)	Borski	Combest
Andrews (TX)	Boucher	Condit
Applegate	Brewster	Conyers
Archer	Brooks	Cooper
Bacchus (FL)	Browder	Coppersmith
Baesler	Brown (FL)	Costello
Barcia	Brown (OH)	Coyne
Barlow	Bryant	Cramer
Barrett (WI)	Byrne	Danner
Bateman	Cantwell	Darden
Becerra	Cardin	de la Garza
Beilenson	Carr	Deal
Berman	Castle	DeFazio
Bevill	Chapman	DeLauro
Bilbray	Clement	Derrick
Deutsch	Klink	Pickle
Dicks	Kreidler	Pomeroy
Dingell	LaFalce	Poshard
Dixon	Lancaster	Price (NC)
Dooley	Lantos	Rahall
Durbin	LaRocco	Reed
Edwards (CA)	Laughlin	Reynolds
Edwards (TX)	Lehman	Richardson
English (AZ)	Levin	Roemer
English (OK)	Lewis (GA)	Rostenkowski
Eshoo	Lipinski	Roth
Evans	Lloyd	Rowland
Fazio	Long	Roybal-Allard
Fields (LA)	Lowey	Rush
Filner	Maloney	Sangmeister
Fish	Mann	Sarpalius
Flake	Manton	Sawyer
Foglietta	Margolies-Mezvinsky	Schenk
Ford (MI)	Markey	Schumer
Ford (TN)	Matsui	Scott
Frank (MA)	Mazzoli	Serrano
Frost	McCloskey	Sharp
Furse	McCollum	Sisisky
Gejdenson	McCurdy	Skaggs
Gephardt	McDermott	Skelton
Geren	McHale	Slattery
Gibbons	McKinney	Slaughter
Gillmor	McNulty	Smith (IA)
Gilman	Meehan	Spratt
Glickman	Meek	Stark
Gonzalez	Menendez	Stenholm
Gordon	Mfume	Stokes
Green	Miller (CA)	Strickland
Gutierrez	Miller (FL)	Studds
Hall (TX)	Mineta	Stupak
Hamburg	Minge	Swett
Hamilton	Mink	Swift
Harman	Moakley	Tanner
Hastings	Mollohan	Tauzin
Hayes	Montgomery	Tejeda
Hefner	Moorhead	Thornton
Hilliard	Moran	Thurman
Hinchey	Murtha	Torres
Hoagland	Myers	Torricelli
Hochbrueckner	Nadler	Towns
Holden	Natcher	Traficant
Houghton	Neal (MA)	Tucker
Hoyer	Oberstar	Unsoeld
Hughes	Obey	Valentine
Hutto	Olver	Velazquez
Inglis	Ortiz	Vento
Jefferson	Orton	Visclosky
Johnson (GA)	Owens	Volkmer
Johnson (SD)	Pallone	Washington
Johnson, E. B.	Parker	Waters
Johnston	Pastor	Watt
Kanjorski	Payne (NJ)	Waxman
Kaptur	Payne (VA)	Wilson
Kasich	Pelosi	Wise
Kennedy	Penny	Woolsey
Kennelly	Peterson (FL)	Wyden
Kildee	Peterson (MN)	Wynn
Kleczka	Pickett	Yates
Klein		

NAYS—160

Allard	Burton	Duncan
Armey	Callahan	Dunn
Bachus (AL)	Calvert	Emerson
Baker (CA)	Camp	Everett
Baker (LA)	Canady	Fawell
Ballenger	Clay	Fields (TX)
Barrett (NE)	Clinger	Fowler
Bartlett	Coble	Franks (CT)
Barton	Collins (GA)	Franks (NJ)
Bentley	Cox	Gallegly
Bereuter	Crapo	Gallo
Bilirakis	Cunningham	Gekas
Bliley	DeLay	Gilchrest
Blute	Diaz-Balart	Gingrich
Boehlert	Dickey	Goodlatte
Boehner	Doolittle	Goodling
Bonilla	Dornan	Goss
Bunning	Dreier	Grams
Grandy	McCandless	Schaefer
Greenwood	McCrery	Schiff
Gunderson	McDade	Schroeder
Hancock	McHugh	Sensenbrenner
Hansen	McInnis	Shaw
Hastert	McKeon	Shays
Hefley	McMillan	Shuster
Herger	Meyers	Skeen
Hobson	Mica	Smith (MI)
Hoekstra	Michel	Smith (NJ)
Hoke	Molinari	Smith (OR)
Horn	Morella	Smith (TX)
Huffington	Murphy	Snowe
Hunter	Nussle	Solomon
Hutchinson	Oxley	Spence
Hyde	Packard	Stearns
Inhofe	Paxon	Stump
Istook	Petri	Sundquist
Jacobs	Pombo	Talent
Johnson (CT)	Porter	Taylor (MS)
Johnson, Sam	Portman	Taylor (NC)
Kim	Pryce (OH)	Thomas (CA)
King	Quillen	Thomas (WY)
Kingston	Quinn	Torkildsen
Klug	Ramstad	Upton
Knollenberg	Ravenel	Vucanovich
Kolbe	Regula	Walker
Kyl	Ridge	Walsh
Lazio	Roberts	Weldon
Levy	Rogers	Wolf
Lewis (CA)	Rohrabacher	Young (AK)
Lewis (FL)	Ros-Lehtinen	Young (FL)
Lightfoot	Roukema	Zeliff
Linder	Royce	Zimmer
Machtley	Santorum	
Manzullo	Saxton	

ANSWERED "PRESENT"—1

Ewing

NOT VOTING—27

Brown (CA)	Henry	Rose
Buyer	Inslee	Sabo
Clayton	Kopetski	Sanders
Clyburn	Lambert	Shepherd
Crane	Leach	Synar
Dellums	Livingston	Thompson
Engel	Martinez	Wheat
Fingerhut	Neal (NC)	Whitten
Hall (OH)	Rangel	Williams

□ 1124

Mr. TEJEDA changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MCNULTY). Will the gentleman from Texas [Mr. BONILLA] kindly come forward and lead the House in the Pledge of Allegiance to our flag.

Mr. BONILLA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without

amendment a bill of the House of the following title:

H.R. 1723. An act to authorize the establishment of a program under which employees of the Central Intelligence Agency may be offered separation pay to separate from service voluntarily to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function, or other similar action, and for other purposes.

TOUGH CHOICES

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, leadership is about making tough choices. The eyes of the Nation are on the House of Representatives today to see if the change that people demanded last fall is actually going to take place. When the President came to office just 4 months ago the deficit had been out of control for 12 long years. In less than a month the President presented this Congress and the American people with a $500 billion deficit reduction plan, the largest of its kind in the history of our country.

The President's plan has over 200 specific spending cuts, including $100 billion reduction in entitlements. The Congress has added an additional $63 billion in spending cuts. Three out of four new tax dollars come from the richest 6 percent of our Nation's people.

It is time for us to give this new President a chance to get our country out of the ditch and back on the road to a recovery that promises new jobs and economic growth.

Give our new President the opportunity to lead this country back from the deficits of the last decade. He deserves our help.

HOLLYWOOD MAKEUP JOB CANNOT HIDE TAX INCREASE

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, apparently President Clinton's handlers have finally located their makeup person.

Once again, President Clinton has tried to change the face of the largest tax increase in American history with something called voluntary spending caps. In other words, instead of this Congress acting, we are going to simply ask the bureaucrats to please not spend as much of our money. Good luck.

Mr. Speaker, for President Clinton to tell the American people he is getting our financial house in order when his budget plan would add more than $2 trillion to the national debt should be enough to make him blush, even through the best Hollywood makeup job.

A MOMENT OF TRUTH

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, for a decade we have talked about the Federal deficit, we have debated the Federal deficit, we have done everything but deal with the Federal deficit. Today is a moment of truth for this institution, for this Congress, for this country, because courage is not measured in words. It is a question of deeds.

Either all those speeches and all those press releases about the deficit meant something, or they did not. Today we are going to find out. We are about to discover whether the profligate 1980's were simply an aberration, a time of loss of fiscal discipline, or a permanent change in the ability of this country and this Congress to govern ourselves.

□ 1130

The only means of restoring confidence in this Congress, giving discipline again to our fiscal affairs, and giving meaning to all those speeches about dealing with the deficit, and confidence in this institution is to deal with the President's plan and to vote for it, and once again bring discipline to our fiscal affairs.

FEAR OF DAWN

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, most Americans thought the days of smoke-filled rooms and closed-door, backroom deals were a part of our political history. We were to be living in a time of political openness and inclusion—an end to gridlock. This was to be the new covenant by which all our politicians would live.

Unfortunately, that is not the case. The Democrats still remain in darkness, striking bargains and making deals behind the closed doors of the Ways and Means Committee.

Fearing the certain storm of protest from hard-working taxpayers, Democrats turned out the lights on the ugly process of raising taxes when they shut out Republicans by voting against every Republican proposal with a party line vote.

Mr. Speaker, it is time to help Bill Clinton keep his campaign promises by substituting his tax increases on the working poor with more spending cuts. To do this, we needed an open rule on reconciliation. To do this, we needed some sunshine allowed in on the process.

The losers of Bill Clinton's broken covenant, Mr. Speaker, will be hard-working taxpayers. And, I think those taxpayers will remember who voted for higher taxes and who voted against the largest tax increase in this Nation's history.

BILL CLINTON MADE THE TOUGH CHOICES

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, when Ronald Reagan was sworn into office, the national debt was $908 billion. When George Bush left office the national debt had exploded to $4 trillion.

Bill Clinton was elected to change this Republican policy of let the kids pay.

President Clinton has met the challenge and has presented the House with a historic opportunity to attack the deficit through reduced spending.

That is why those who produce milk will be paid $320 million less during the next 5 years.

That is why tobacco growers will be assessed more in the future.

That is why military retirees will have their COLA's delayed by 4 months.

That is why hospitals and physicians will have their payments under Medicare frozen for the next 2 years.

And that is why the Treasury Postal Subcommittee on Appropriations yesterday voted to eliminate all funding for two agencies of Government.

The decisions about these spending cuts weren't easy. These spending cuts aren't popular. But these spending cuts need to be made.

Bill Clinton has made the tough spending choices. Today we must join him.

LARGEST TAX INCREASE IN AMERICAN HISTORY

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, I will be voting today against the budget bill, because it is the largest tax increase in American history.

Every sector of society is hit and hit hard.

This new tax will cost about $226 per month for millions of retirees on fixed incomes. This is a tremendous burden.

Rather than enjoy their retirement, these senior citizens are being forced into the poorhouse. Under this bill, 85 percent of Social Security benefits will be taxed to raise $32 billion to pay for waste and gross fiscal mismanagement by this Government.

This is outrageous. Our senior citizens did not create this financial mess.

They have been working hard all their lives contributing revenue.

I urge my colleagues to vote against this dangerous tax bill.

TODAY IS THE DAY THE RUBBER MEETS THE ROAD

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, today is the day where the rubber meets the road. It decides whether or not this country has an economic plan or continues economic drift. It is about deficit reduction, real deficit reduction and real economic growth, a bill that, after you strip all of the hoopla out of it, has $250 billion in cuts, more dollars in cuts than tax increases.

It is a bill, yes, about tax increases and two-thirds of those falling on those making over $200,000. And yes, there is a Btu tax, and if you are making somewhere around $30,000 to $40,000, it will amount, after 3 years, to about 50 cents a day, about the price of a cup of coffee. And yes, there are taxes that affect our industries, but, for instance, in aluminum and coal and natural gas and the barge fees, we were able to get those significantly adjusted.

Real spending cuts, Mr. Speaker, a fair tax burden basically on the upper incomes, a deficit reduction account that guarantees tax increases go for deficit reduction, not for new spending.

It is time, Mr. Speaker, to get this economy moving and to pass this bill.

NEED FOR STRONGER TRUCKLOAD RESTRAINT REGULATIONS

(Mr. QUINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUINN. Mr. Speaker, I rise today not to talk about taxes or spending, although these are very important issues.

Instead, I rise to speak about issues that are even more important, the issues of life and death.

There is a dangerous problem on our Nation's highways, a problem that risks peoples' lives, a problem that cost four people their lives in Buffalo, NY, last year.

On October 5, 1992, during the morning rush hour, a flatbed trailer truck, traveling on the New York State Thruway, struck the median divider, snapping the chains which secured its load of four giant coils of steel.

The steel coils—weighing 20 tons each—flew off the trailer, crushing three cars, killing four people.

Since that tragedy last October, 7 months ago, heavy metal coils have fallen off trucks on three other occasions in western New York, and statistics indicate similar problems are occurring across the country.

Luckily, no one else has been hurt or killed.

But will we be so lucky next time?

Before another person is killed, we need to improve the way truckers are required to secure their loads; we need to protect motorists on our highways.

I will go to the Federal Highway Administration to ask for stronger load restraint regulations.

Mr. SHUSTER, the ranking member on the Public Works and Transportation Committee, has offered to help.

And, Mr. Speaker, I ask for the help of all my colleagues, so that we can avoid another deadly tragedy on our highways.

IT'S SHOWTIME

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, as they said in the movie, "Chorus Line," it's showtime. It is showtime for the Congress of the United States, for the President of the United States, and for the people of the United States.

Today we will determine whether or not we fully understand what the American people said to us in November, and that is that they no longer wanted a President who talked about balanced budgets and then sent phony budgets to the Hill. No longer did they want a Congress that cooked the numbers and moved spending from one fiscal year to another, one gimmick after another, and the deficit got larger and larger.

People in this country said what they wanted was a change. And President Clinton has presented us with an economic plan to provide for that change.

That change since the election has brought about the lowest interest rates in the last 20 years in this country. Those low interest rates for the first time have allowed people to buy a home, to refinance an existing home, to better be able to afford their children's education, to buy an automobile and put an autoworker back to work. That is real change, not symbolic change, not the rhetoric that we have had over the last 12 years as the Republicans have continued to talk about lower deficits but only sent us larger and larger deficits.

Today the numbers are real. The deficit reduction is real and the benefit to the American people is real.

It's showtime.

□ 1140

HANG TOGETHER?

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, President Clinton is urging his Democratic colleagues to unite in voting for the largest tax increase in history.

He uses the old Ben Franklin adage: We must hang together, or we will all hang separately.

Actually, Mr. Speaker, if your Democrat colleagues hang together to pass the largest tax increase in history, they will certainly hang separately in the next election.

Face it, my friends. The American people do not want to pay any more taxes. They feel they pay enough taxes, and they are right. We need to cut spending first.

The votes we take today will not be soon forgotten by the American voters. Both votes on the rule and on final passage will lead to more taxes, higher inflation, and slower economic growth.

Mr. Speaker, there is no reason to hang with the President. He is dead wrong. Cut spending first.

LISTEN TO THE PEOPLE, NOT THE LOBBYISTS

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK. Mr. Speaker, on Tuesday, the results of the latest consumer confidence poll were released, and I was not surprised. The American people see the gridlock in Washington and know that the economy is in trouble.

The economic mess was created over the last 12 years and it will not be corrected without causing some pain. There are games being played with the lives of the people we were sent to represent. It is the vain hope of some to destroy President Clinton so that they can regain the White House.

They are willing to destroy the economic lives of millions of Americans in their lust for power.

Americans thought that the decade of greed had been ended last November, but they were wrong. The purveyors of greed have counterattacked and are willing to bring down the American economy to preserve their ill gotten gains.

We will never know how many tens of millions of dollars are being spent to defeat the President's program. We have heard that advertisements have been prepared to flow from Washington to certain congressional districts. The names of the front groups will sound like ice cream and apple pie, but the money comes from the purveyors of greed. Their identities will be hidden and their financial interests will never reach the light of day.

Is it any wonder that the American consumer has lost confidence?

I will stand up for the American consumer. I will oppose the purveyors of greed and their army of mercenaries.

I will vote for the President's program. I will vote for the American people and against the purveyors of greed.

TRAVEL AND TAXES

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, well, it looks like Travelgate has become the big story on the Nation's headlines. President Clinton has decided to have his chief of staff investigate what really happened.

I wish the White House would spend more time investigating what their tax package will do to American families. They should examine how the Btu tax will hit poor and middle class families the hardest.

They should reconsider how their Social Security tax will hurt senior citizens. They should ask themselves why they haven't listened to American public opinion, and cut spending first.

When the President gets his travel office back together, he should consider a trip to middle America. There, the people will tell him to cut spending first.

I urge my colleagues to vote against the reconciliation rule and the final bill. We do not need more taxes or more spending.

JUST SAY NO TO SPECIAL INTERESTS

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, as we prepare to vote on the deficit reduction package, a rightwing group is targeting some of us with a campaign of distortions.

The group is called Citizens for a Sound Economy, and it is running ads in my district opposing the Btu tax.

People in my State know this group well, because 2 years ago it bankrolled a term limit initiative that was so extreme the voters rejected it.

Most of its money comes from the Koch brothers, two of the world's richest men, who have a big interest in—guess what—big oil.

The chairman of Citizens for a Sound Economy is Jim Miller, who doubled the national debt when he was Ronald Reagan's budget director.

Taking advice on deficit reduction from Jim Miller and the Koch brothers is like taking tax advice from Leona Helmsley.

I do not like the Btu tax, and neither do a lot of my constituents. We would not need that tax if Jim Miller and his friends had done their jobs when they were in charge.

But now we can either do nothing, and let the deficit get worse, or we can start fixing it.

I came to Congress to fix the mess.

And I do not need billionaire special interests telling me how to do that.

YES, IT IS SHOWTIME

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, yes it's showtime: massive tax increases on senior citizens and on the middle class; an energy tax that cost 600,000 jobs; new Federal social welfare spending programs; $1 trillion in additional cumulative debt; gimmicks, glitz, and let the good times roll.

Yes, it's showtime.

LET US PASS THE PLAN

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, yes, it is showtime, and guess who gave us the original showtime. Well, let us see, what Hollywood actor ascended to the Presidency?

I think it was the Republican Party that was the original creator of showtime in the 1980's. That is right, Mr. Speaker, they showed us how the rich could get richer and the poor could get poorer. But guess what, now the real showtime has got to come to bear, and that is the time we find that the rich are going to have to ante up, because in this plan, Mr. Speaker, 66 percent of all the taxes are on those people making $200,000 a year or more, 75 percent of all new revenues are going to go on those persons making $100,000 a year or more.

It is showtime, all right, and it is time to fish or cut bait, because the Republicans want you to believe that this plan is only about the greatest tax increase in this country.

But guess what, this plan is also the greatest deficit reduction plan that we have ever seen in history. They do not want you to know about that.

But guess what, that is what it is, and that is what I am going to vote on today, Mr. Speaker, and we are going to pass the plan.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind our guests in the gallery that we are delighted to have you with us, but you are to refrain from responding either positively or negatively to statements made by Members on the floor.

CUT SPENDING FIRST

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, today we will vote on the largest tax increase in American history. The Congressional Budget Office, which is controlled by the Democrats, estimates these tax increases at $322 billion. This comes to over $1,200 per person.

Anyone who thinks only the wealthy will pay is living in a dream world. Taxes always come back to the middle and lower middle income people.

The President said during his campaign that he was going to raise taxes only on those making over $200,000 a year. The truth is these taxes are going to hit everybody regardless of income, because prices will go up on everything.

A newscaster for channel 5 here this morning said the so-called midnight compromise from last night is really just a face-saving measure for conservative Democrats. He said it is really meaningless. He said no one knows what the proposed spending targets really mean. It is a charade, a hoax. The President's package has no spending cuts, and, in fact, increases spending during the first 2 years.

The cuts in years 4 and 5 will never see the light of day until and unless more conservatives are elected to the Congress.

People in my district, Democrats, Republicans, and Independents, are saying cut spending first.

A HISTORIC CHANGE

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, nearly 50 cents of every dollar that the American taxpayers send to Washington is spent on entitlement programs, and anyone who knows anything about the arithmetic of our budget understands that we are not going to solve our deficit problem until we get these entitlement programs under control.

This part of our deficit has been on autopilot for 20 years, and last night, about 1 o'clock in the morning, we were able to come to a very difficult compromise on an effort to cap entitlement spending for the first time in our Nation's history.

I believe this to be a historic change in our budget process. Our colleagues, the gentleman from Minnesota [Mr. PENNY], and the gentleman from Texas [Mr. STENHOLM], and the gentleman from South Carolina [Mr. SPRATT], deserve a lot of credit for negotiating the toughest entitlement cap that we can possibly get through this Congress.

I think this particular provision in the package is definitely worthy of everyone's support, and I urge my colleagues to support the reconciliation package today.

Please, look at the entitlement cap and understand what a historic change this is. We are taking entitlements off of autopilot, and it is worthy of our support.

BUDGET RECONCILIATION A HARD SELL

(Mr. POMBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMBO. Mr. Speaker, as a farmer, I know that the budget reconciliation is going to be hard to sell, especially to our Nation's farmers.

The plain, simple truth is that the budget reconciliation cuts nearly $3 billion from farm programs while, at the same time, increases and expands the Food Stamp Program by over $7 billion. Those are the facts that the supporters of this budget need to explain.

For me, it is easy. I voted against the budget. I wanted to see that needed cuts were made, but made fairly, rather than by heaping the burden even higher on farmers.

For my Democrat colleagues, however, I can only wish you luck. I want to see you go and visit a farmer in your district, put your foot up on the bumper of his truck, and tell him why the money being cut from crop insurance is better spent by expanding the Food Stamp Program. Or explain to him the equity of the Btu or estate taxes. I would like to be there when you try. But let me give you a word of warning: Do not do it near a running combine.

□ 1150

SUPPORTING THE RECONCILIATION ACT

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, the Budget Reconciliation Act is about hard choices. It's hard to ignore our sagging economy and the Federal deficit. It's also hard to leave our children with little or no means to accessible, affordable health care, and hundreds of thousands of Americans without jobs. And it's hard to support an energy tax that would raise production costs on our farmers, and we've cut the burden in half by exempting on-farm use of gasoline and diesel from the energy tax. But it's time to face the hard facts. We must put American back to work.

We cannot continue to wait, and hope, that change will come. This plan is the largest deficit-reduction package in the history of the Republic. It reduces our Federal deficit by $496 billion over the next 5 years. It helps fund jobs programs and job training for our citizens, and assumes full funding for Head Start, a very important educational program for our children. And it does cut spending.

There is no easy way out, Mr. Speaker. It's time to make the tough decisions. Let's jumpstart our economy and let's make the right choice by voting for the Budget Reconciliation Act.

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THE CLINTON TAX PLAN

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, today is the day we answer a fundamental question: Are American families and businesses undertaxed? Or, does the Federal Government just spend too much? I think we all know the answer to this question.

Day after day, I talk to folks across my Sixth District of Virginia and they tell me how the tax burden is eating into their already tight family budgets. A vote for President Clinton's $360 billion tax boondoggle is a slap in the face to every one of these families. They work hard to earn a living, to buy the groceries, pay for new school clothes for the kids, and cover the insurance payments and mortgage. They deserve better.

I ask each Member of the House to ask himself or herself a question: Will our Nation be better off in 4 years if we pass these huge new tax increases?

I heard the President calling this a deficit-reduction tax increase. That's like a spring snowstorm. You can see it coming down, but it just does not stick. This money that President Clinton is trying to dig out of the pockets of America's families and businesses will be wasted on expensive new Government pork-barrel programs which do nothing more than provide jobs for Washington, DC, bureaucrats. The President likes to create a Government program to solve every problem but as former President Reagan put it so well, "Government does not solve problems. It subsidizes them."

PASS THE RECONCILIATION BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, this is the biggest vote of the decade. Are we going to vote simply as Democrats or Republicans, or as Americans wanting to give the President a chance to govern?

This economic plan has pain for everyone. There are hundreds of reasons to vote against it. But fundamentally it is not about spending cuts or deficit reduction; it is about whether we as a nation can govern and eliminate the gridlock of the last 12 years.

Mr. Speaker, this is it. Today we will vote on and pass the President's reconciliation bill—a bill that cuts the deficit, restores faith and fairness in Government, and sets a positive course for this country.

Let me restate some of the facts:

This plan is the most aggressive deficit-cutting plan we have ever seen. It cuts the deficit by $500 billion over 5 years.

This plan is fair—the heaviest burden is shouldered by those who can and should pay—the wealthiest of Americans. In fact, the vast majority of the tax increase will be paid by those making over $200,000 per year.

This plan reminds us of the reason America voted for Bill Clinton. It calls for shared sacrifice and is based on honesty—not the smoke and mirrors of the last 12 years. Most of all, it demonstrates the courage needed to make the tough cuts.

Mr. Speaker, this is our moment of truth, our time to stand and deliver for the American people. Today America will see—gridlock is dead.

THE BILL CLINTON TAX BILL: GIVING CREDIT WHERE CREDIT IS DUE

(Mr. BONILLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONILLA. Mr. Speaker, Americans naturally take pride in what they make. When Henry Ford started his car company he named it after himself. When a man named Amos perfected his cookie recipe, he named his treat after himself, "Famous Amos."

Hard-working people all over this great country take pride in their work and want their names on it. Craftsmen and artists autograph their creations. Lawmakers put their names on bills. If you take pride in your work you should take credit.

And if the President takes pride in his work he should put his name on his creation. If his tax proposal passes it should be passed on as the Bill Clinton tax. So, when struggling families open their utility bill they can see clearly the Bill Clinton energy tax added to the statement.

Or when that elderly couple receives a smaller Social Security check, they will know that it was the Bill Clinton Social Security tax that will force them to do with less.

If the President truly believes in his proposals he should proudly name the taxes after himself. Even Dr. Frankenstein had his monster.

IT'S ABOUT JOBS, CONGRESS, NOT ABOUT TAXES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, another 5-year plan for America, new record taxes on American workers and American companies. Meanwhile, American subsidiaries overseas once again escape the Tax Code. Now figure this out: If you stay in America, you are taxed; if you move overseas, you get tax breaks.

I am opposed to this madness.

In addition, we are going to open up the borders with Mexico—wow. I predict jobs and investment going to Mexico like Olympic sprinters. In return, we will get a used Ford pickup, 2 tons of heroin, and 3 baseball players, to be named later.

I am voting "no," dammit; it is about jobs, Congress, not about taxes.

The American people are taxed-off.

THE LARGEST TAX INCREASE IN HISTORY, AND NO AMENDMENTS ARE ALLOWED

(Mr. MCCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Speaker, early this morning the Democrat leadership exhibited the arrogance of power which makes congressional term limits such a compelling cause. They decided to make a deal in order to pass the largest tax increase in history, and the deal was over a rule that will come out here today that will not allow us to offer amendments or even their Members to offer amendments that would alter the face of the energy tax or remove it, et cetera. Only one substitute is allowed; ours granted by only one. I think that kind of arrogance is going to get to them. The fact of the matter is that we are dealing with not only the largest tax increase in history but we are dealing with the fact that this bill out here today will not have any reductions in spending for the first 2 years. And when we get down the pike, assuming that it works—and I do not believe the math will work—assuming it does, at the end of 5 years we will have added $1 trillion to the debt, from $4.5 trillion to $5.5 trillion, and still have $200 billion in deficits; nowhere near a balanced budget.

I submit, my colleagues, what the American people will understand more after the pain than they do even now—and I think they understand now—the way to solve the problem of the deficits and get to a balanced budget is to cut the spending, not increase the taxes.

THE BUDGET RESOLUTION

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, today, Mr. Speaker, we will vote on the President's 1994 budget.

The action we take today will have a resounding effect on the lives of the American people regardless of the outcome.

The passage of this budget will begin a road toward economic stability, healthier and better nourished children, and more meaningful job opportunities, to name just a few of its benefits.

For the last week or so the word entitlement has been brandished about as though it were some Fascist buzz word to warn those in support of the programs that our lives would be held in bondage if those services were not capped.

Well, for me, the world entitlement means to enable, qualify, and allow.

The provisions in this budget will enable Americans to gain more control of their lives.

It will qualify them for resources needed to become more productive citizens.

It will instill in our people dignity and pride in a government that works for them and not against them.

And that, Mr. Speaker, is something to which we all are entitled, and President Clinton's budget will start that process.

REBELLION IS A GOOD THING

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, President Clinton admires Thomas Jefferson. Well, Jefferson said "a little rebellion now and then is a good thing." And today, it's an especially good thing for the American taxpayers.

Because right now, President Clinton has a rebellion on his hands. Not just Republicans, but members of his own Democrat Party, are saying the liberal Clinton program of tax and spend is unpopular among the people and a recipe for economic disaster in this country. The energy tax will cost our recovering economy 500,000 jobs; the tax on Social Security benefits will bring pain to America's seniors; the income tax bill will steal capital needed to create jobs and expand business.

A rebellion against the Clinton program of tax increases and new spending is a good thing, Mr. Speaker. It is a good thing for the country and good for the American taxpayer.

Cut spending first.

□ 1200

IN SUPPORT OF PRESIDENT'S DEFICIT REDUCTION PACKAGE

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, I rise in support of this deficit reduction package. This package addresses the twin deficits that plague the people of Georgia's 11th Congressional District.

This package reduces the budget deficit that threatens the future of our children. Children are especially spared cuts in entitlement spending. Spending is shifted to essential programs for children and families, groups that lost ground during the last 12 years. Full funding of Head Start, full funding of the Mickey Leland Hunger Prevention Act, full funding of WIC, full funding of childhood immunizations.

The earned income tax credit assures that this country's children of working parents will not be raised in poverty. Georgia families received a total of $425 million from the earned income tax credit last year. We expect to receive an additional $282 million from the expanded earned income tax credit.

The budget is not just a political document. It is also a moral statement of our national priorities.

Our President's budget says that government should no longer serve the needs of a few of us at the expense of the rest of us.

Mr. Speaker, President Clinton's budget is good and it is good for Georgia. It is good for this country.

NO TRUST AND CONFIDENCE IN PRESIDENT

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, around the country people are asking why is the Clinton administration such a disaster after only 130 days. His negatives are higher than his positives.

Well, as a previous speaker said, everyone looks at Thomas Jefferson in the Clinton administration. Thomas Jefferson said that a President can only be successful if the people have trust and confidence in him.

Well, here is what President Clinton said about Social Security, which is being taxed in this bill today, 9½ million Social Security recipients are being taxed to the tune of $29 billion.

Here is what Clinton said in September of last year:

> We are not going to fool with Social Security. It is sound and I am going to keep it that way. You can take it to the bank.

That was his quote.

Today we are voting on a $29 billion tax on senior citizens.

You see, there is no trust and confidence. Another broken campaign promise.

You cannot go around and tell people whatever they want to hear and then when you are in office do whatever you feel like and break every promise. That is why this country is in trouble and that is why the Clinton administration is in trouble. There is no trust and confidence in this administration, and rightly so.

GIVE THE PRESIDENT A CHANCE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, in 1981 as a third term Member of Congress, I

listened to Ronald Reagan ask the American people and this Congress to give him a chance, to give his program, which I might add was very complicated and very controversial, a chance. I voted for his tax reduction bill. I was one of about 50 Democratic Members of Congress who voted for Reagan's tax bill, not because it was perfect; but because it offered a chance and he, the new President asked for it.

Now our new President has asked us for the same chance, a chance to reduce the deficit dramatically and to do it with fairness, equity, growth, and jobs.

Yes, it is controversial. Yes, it may have some problems with it, as did the Reagan program, but he has asked for our help. He has asked us to give him a chance.

Americans do not like excessive partisanship. I am sorry that no Republican in the House, like nearly 50 Democrats in 1981, but not one Republican chooses to give our President the same chance that I and the nearly one-fifth of the Democrats of the House did for President Reagan in 1981.

Mr. Speaker, I believe Americans are fair and I believe that today they will applaud our efforts to give Bill Clinton a chance to make America a better place.

THE PRESIDENT'S TAX DEAL

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, when the American people got up this morning, they turned on the news to hear that the President had finally made a "deal" with the Congress on his middle-class tax increase.

The American people need to know that this deal was struck at 4 a.m. this morning behind closed doors, and the only deal made was how big the tax increase is going to be on working Americans.

This is not a good deal for American taxpayers. It is a raw deal.

It is still $322 billion of tax increases over 5 years with no real deficit reduction.

It contains 20 times tax increases as spending cuts in the first year, and six times tax increases over spending cuts over the next 5 years.

Where is the fiscal responsibility that Mr. Clinton claimed to have during his campaign?

Mr. Speaker, I hope the people across this Nation watching right now will call their Representatives in Washington and tell them to vote no on this middle-of-the-night thievery.

EXCELLENCE IN EDUCATION IN KENTUCKY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there are many good-faith differences among and between us on how best to restore America's economic health and these will be debated today, but there is no difference among us or between us on revering and honoring States and localities and schools which distinguish themselves in education programs and which achieve excellence in those programs.

In a few moments I will be joining Louisville Mayor Jerry Abramson and county judge executive of Jefferson County, David Armstrong, at ceremonies in which the city of Louisville and the county of Jefferson will be jointly honored as a community of excellence in education.

On tomorrow the Federal Department of Education will announce that six Kentucky schools, including two from my district, St. Xavier High School, my alma mater, and Assumption Academy, will be designated as blue ribbon schools, schools of high achievement in education.

Mr. Speaker, in Kentucky, in Louisville, in Jefferson County, education is important. Education is put on a high pedestal, and education in our communities is marked by excellence.

TARPON SPRINGS WAR MEMORIAL

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, several years ago, two Vietnam veterans, Robert Renneke and Dr. Fred Roever, in my district proposed building a memorial to honor those killed, or yet missing in action, who hailed from the local area. Like so many other memorial projects, this one was ridiculed by some who contended it was a waste of time and money. However, I am pleased to say that the monument's supporters persevered and in 1992, the city of Tarpon Springs, FL, held a dedication ceremony for this important memorial. Although the memorial started with the purpose of recognizing our great Vietnam veterans, it soon expanded to include those from the area who served and gave their lives in all wars.

And so I take to the floor today to salute Messrs. Renneke and Roever and the community as a whole who made the Tarpon Springs war memorial possible. In this way we might always remember how blessed we are in the modern world to live in a free society, nor forget that this blessing is due to the sacrifices of our friends, relatives, neighbors, and countrymen who served us all when duty called.

STOCK MARKET SUPPORTS DEFICIT REDUCTION

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, the number one problem facing the United States today is the Federal deficit, $4 trillion, $3 trillion of which has grown in the last 12 years under the Republican rule in the White House.

This is a tough political vote today, no doubt about it, but I do not understand why you folks do not admit there is $250 billion of spending cuts.

Yes, there are tax increases there, and we asked the wealthiest in this country to pay a little bit more. We asked the top corporations in this country to pay a little bit more.

Republicans like to say this is bad for business. On the eve of this vote, the stock market had its greatest record level in the history of this country. You want good evidence of how good this is for business? Ask the stock market. Do not ask the self-proclaimed business experts on the Republican side of the aisle. Ask those who are involved with the economy at the stock market. Record highs at the stock market on the eve of this vote.

Right now the market is up. The market is up and that is because they understand this is a true deficit reduction package which means lower interest rates for this country, which will put money into the pockets of every business person, money into the pockets of every consumer in this Nation, record highs at the stock market. That is the best evidence that this is good for business in America.

□ 1210

WHAT WAS BILL THINKING?

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, in the last 2 weeks, we have all asked ourselves the question, "What was Bill thinking?", when we read about Travelgate and Hair Force One. Well, I think we need to ask that question again.

On May 20, the White House announced that the President has named his former Tennessee campaign chairman, Jim Hall, to replace Christopher Hart on the National Transportation Safety Board. Mr. Hall is a lawyer and a real estate developer and has worked on the staffs of former Senators Albert Gore, Sr. and Edmund Muskie as well as Clinton's Tennessee campaign manager.

What makes this all the more troubling, is that Mr. Hall will be replacing an extremely well-qualified board member, Chris Hart.

Mr. Hart is an instrument-rated pilot with certificates in commercial, single- and multi-engine aircraft. He has a master's degree in aerospace engineering and has conducted research on helicopters.

A magna cum laude graduate of Princeton University with a juris doctor degree from Harvard Law School, Chris Hart is exactly the kind of person we need on the safety board.

But I have got to ask "what was Bill thinking" when he decided to replace an aerospace engineer with a real estate developer on the National Transportation Safety Board? Why, Mr. President, would you remove the most qualified person from the safety board? Oh, by the way, Chris Hart, the most qualified member of the NTSB who President Clinton has replaced is an African-American.

SETTING THE RECORD STRAIGHT ON THE RECONCILIATION BILL

(Mr. LEVIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, the debate today has just begun, and already the air is filled with misstatements.

The largest tax increase in history? That is simply wrong. In 1993 dollars, the TEFRA bill of 1982 was $58 billion larger than this. That is the fact. The 1982 bill was supported actively by Senator DOLE and signed by President Reagan. That is right, it was $58 billion larger than this one.

Second, they say this is six times taxes versus cuts. That is simply not true. This bill cuts spending first, and we guarantee it.

Mr. Speaker, those Members who come after me whose policies created most of the national debt of $4.5 trillion have no standing to lecture America about deficit reduction.

A RETURN TO OLD-FASHIONED BACK ROOM POLITICS

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, I'm mad enough to fight and anyone who believes in democracy ought to be just as angry.

What is going on today isn't the democratic process at all. This is a rollback to old fashioned, back room politics.

Nobody really knows what happened last night at 2 a.m. But it sure looks like deals were cut.

In the dark of night, in a back room outside the Rules Committee, away from the cameras and the public, the power brokers of the Democratic Party got together and cut just enough deals to buy just enough votes to save Bill Clinton's tax plan.

Look at the rule. It magically enacts seven amendments that will never have to be debated in the light of day. But it denies the Republicans the opportunity to offer or debate, in public, any amendments except for one substitute.

That is not Democracy.

That is the arrogance of the Democrat majority.

GERMANY TURNS TO CAPITALISM WHILE THE UNITED STATES LEANS TOWARD BIGGER GOVERNMENT

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, two great nations are at the crossroads of their economic future. We all know how flat our economic growth is in the United States. The Clinton administration has chosen the path of increasing individual and business taxes, increasing energy taxes, increased Government spending.

Germany, on the other hand, faced with higher inflation, higher wage rates, higher unemployment, and the assimilation of the former Socialist East Germany has chosen instead to slash government spending, cut business taxes, and reduce regulations. I think the Germans have got it right. They have decided to turn their economy loose and allow the genius of capitalism to work. We on the other hand are headed toward bigger government, bigger deficits, and bigger problems down the road.

THE CLINTON ADMINISTRATION'S FRIGHTENING NUMBERS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the Clinton administration has been racking up some pretty frightening numbers lately. According to Tuesday's USA Today/CNN Gallup Poll only 23 percent of Americans are saying that the Clinton administration's economic plan should be passed as is, while 68 percent—over two-thirds of Americans—say that the plan should either be greatly modified or rejected.

As bad as President Clinton's numbers are, they ain't nothing compared to the tax and spending numbers he is inflicting on the American people. Numbers like $43 billion in new taxes next year, $322 billion in new taxes over the next 5 years, 600,000 in lost jobs from an energy tax that will cost every family $475, and an increase in Social Security benefits that will be taxed.

No wonder that with tax numbers like those, President Clinton sets another new low with every poll taken. I urge my Democrat colleagues to pay attention to the American people and reject more taxing and spending or they may see another frightening number: 1994.

THE SAGA OF A SUMMER JOB

(Mr. KINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, we spent a lot of time in the past couple of days talking about jobs, particularly summer jobs. Here is an interesting story about a summer job and our help-the-little-man Government. It is a story about 14-year-old Tommy McCoy from Savannah, GA.

Tommy was the batboy for the Savannah Cardinals. He was competent, he did a great job, and he was a hustler. He was popular with the members of the team, and everyone liked him. He did such a good job that the newspaper wrote an article specifically about Tommy.

Well, what happened? Among the thousands of readers was a Department of Labor employee who did the bureaucratic thing and turned Tommy in for violating section 570.35 of the child labor laws which says that 14-year-olds cannot work past 9 p.m. even if their parents say it is OK, even if their grades are good, even if they are out of school for the summer.

So Tommy McCoy got fired by this compassionate Government of ours.

Mr. Speaker, I have written to Labor Secretary Reich and asked him to reexamine this rigid, unreasonable rule, and I ask the Members of the House to join me in this effort and ask the Department of Labor to make a waiver for kids who are doing the right thing, who are showing initiative, and who have a summer job which was not provided by the Government.

Mr. Speaker, I think if we do that, we will be doing something for summer jobs.

SURVEYS SHOW PUBLIC OPPOSITION TO THE BTU TAX

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, the proposed Btu tax is both hidden and regressive.

This stealth tax is deliberately hidden, and it will be passed on to hard-working Americans through higher prices on everything from lettuce to Levis, and since middle America spends a greater percentage of their income on food, clothes, and haircuts than the wealthy, then a greater percentage of their income will go to this stealth energy tax.

Mr. Speaker, the energy tax was designed in this hidden manner because they do not want people to see it, but I guarantee they will feel it. A recent Wall Street Journal poll indicated that more than 60 percent of the public opposes the proposed energy tax. It is riddled with exemptions, and before all

the deals are cut, it is going to resemble a lace doily.

Mr. Speaker, I urge my colleagues to defend their constituents from this huge tax increase.

THE MIDDLE CLASS ENERGY TAX WILL HURT AMERICA

(Mr. TORKILDSEN asked and was given permission to address the House for 1 minute.)

Mr. TORKILDSEN. Mr. Speaker, I rise today in opposition to the proposed Btu tax which President Clinton wants to impose on the American people.

During the campaign, candidate Clinton promised not to make the middle class pay for his programs. Well, this Btu tax will make the middle class pay and pay and pay. The energy tax will cost $70 billion, mostly from the middle class.

And the middle class will pay more than just the tax on gasoline and other energy. Everyone will pay more, even the poor, when the price of a loaf of bread and a gallon of milk goes up.

I applaud the bipartisan effort in the Senate to remove the middle-class energy tax. The Senate knows that we need to cut spending first and the American people want us to cut spending first. Hopefully the House of Representatives will get the message, too.

Mr. President, $400 a year in new energy taxes may only be a couple of haircuts for you, but to a family in America it means a whole lot more.

□ 1220

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded that they should address their remarks to the Chair.

HOPE FOR A REPUBLICAN CONTROLLED HOUSE

(Mr. GRAMS asked and was given permission to address the House for 1 minute.)

Mr. GRAMS. Mr. Speaker, it's been so long since the Republicans have controlled this House that many people may have given up hope that it would ever happen.

Well, Mr. Speaker, there is hope again. And we can thank President Clinton, and the Democratic leadership.

After all, just think how angry the American people are going to be when House Democrats vote today to stick them with the largest tax increase in American history.

Think of how angry they will be when they discover that Congress found it easier to rob taxpayers pocketbooks than cut Government spending.

And think how they are going to react when they get stuck with a $500 per year energy tax.

Now, I know my Democratic colleagues don't think that is a lot of money. After all, $500 only buy two Clinton haircuts.

But for average Americans, today's Btu tax alone will be devastating. And it will be especially devastating to the 600,000 Americans that are going to lose their jobs because of it.

Mr. Speaker, I remind my Democratic colleagues that the voters won't forget. Ask George Bush who agreed to a tax hike in 1990.

If you think you are going to have a tough time explaining this vote to your fellow Democrats in the Senate, just think how tough a time you are going to have with your own constituents in November 1994.

VACATING OF SPECIAL ORDER AND REINSTATEMENT OF SPECIAL ORDER

Mr. DORNAN. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order tonight and, in lieu thereof, be permitted to address the House for 5 minutes so I can address El Presidente's problem with our military culture and why he is in the face of our military to speak at West Point over the weekend. Some Members have used the term, they are not pronouncing it correctly, it is called showtime. And this is showtime.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BROKEN CAMPAIGN PROMISES

(Mr. DORNAN asked and was given permission to address the House for 1 minute.)

Mr. DORNAN. Mr. Speaker, I would like to discuss the rhetorical question asked, with all America listening by the gentleman from Kansas, DAN GLICKMAN, my good friend.

The gentleman asks why there are no Republicans supporting the Clinton tax hike when 50 Democrats, including the gentleman from Kansas, supported Ronald Reagan in his first year?

It is simply this: President Ronald Reagan was keeping every one of his campaign promises, and Presidente Clinton is breaking every one of his campaign promises. Anybody have any trouble with that analysis? It is very simple. Indeed, doesn't anybody else find it amusing that we will soon be debating a reconciliation bill that cannot be reconciled with any of Clinton's campaign promises?

Here is the hottest document on the Hill. It is called the Clinton tax bill, updated resource materials for Republican Members. I urge all Americans to get a copy so they can get the facts. They certainly won't get them from the other side of the aisle.

Contrary to the remarks of a previous speaker, this is not showtime today. This is the same old thing: More taxes, more spending, more regulations, more deficit, more debt, both personal and Federal, interest rates going up, inflation going up.

I will trail off on what is going down: Investment going down, productivity going down, hard work going down, savings going down.

THOUGHTS ON THE RECONCILIATION BILL

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, we have heard a great deal of good-sounding rhetoric, particularly from the other side of the aisle, that the purpose of today's bill is indeed to address the deficit. But normally, over the last number of weeks, we have heard the administration's plan, their plan has been to address the deficit "and."

And words have always been added after "address the deficit," and they have always been good-sounding words like "get the economy moving again" or "increase the number of jobs."

But the word "and" is their euphemism for new spending ideas. After all, the very first proposal from the administration to reach Congress was for the more deficit spending.

Now they tell us that we can have confidence that this bill will indeed raise revenue to go to the deficit. What do they provide?

They provide such things like a trust fund to address the deficit, a trust fund.

Do my colleagues know we already have a trust fund for the excessive revenues received from Social Security? And where is that money today? Is that money down the street in a bank? Of course, it is not. That money has been spent by the Congress, and Congress has returned, in its place, an IOU, a giant Treasury bill.

That is exactly what can happen with the revenue raised through increased taxes in a deficit trust fund.

Congress puts it in the books, borrows it, spends it, and it is not there any more.

I suggest we should not have confidence that there will be any differences here.

TERM LIMITS

(Mr. HUFFINGTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUFFINGTON. Mr. Speaker, this bill is a sham. According to the Congressional Monitor, this $343 billion

measure would bring in $275 billion in new revenues, that is, taxes, and mandate $68 billion in spending cuts, $4 of taxes, $1 of cuts. There is not $1 of real deficit reduction. None at all. There are no net spending cuts in the first 2 years. All potential savings are in the third year and beyond. What is the solution to this travesty? Term limits—pure and simple. Until we get rid of the professional politicians, we will never be able to stop the spenders.

On this very day, the Democratic Congress will pass the largest tax increase in history, the front page headline in Roll Call stated "Foley to Sue to Try and Kill Term Limits". Mr. Speaker, the American people are voting for term limits—2 to 1. Mr. Speaker, it's time to listen to what the American people want, citizen politicians not professional politicians.

THINK ABOUT YOUR VOTE

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, no politician has ever lost an election by voting against a tax increase. But plenty have lost by voting to raise taxes.

I hope my friends on the other side of the aisle keep that in mind as we vote on the reconciliation rule. A vote for the reconciliation rule is a vote for the largest tax increase in history.

The President and his allies in the House complained endlessly about how bad the last 12 years have been. Well, Mr. Speaker, during the Reagan-Bush era, our country enjoyed an economic boom unprecedented in our history. We whipped inflation and we tamed interest rates. The era came to an end because the Democratic Congress forced President Bush to raise taxes. The recession from that tax increase lingers still today.

And now, the Democrats, led by President Clinton, want to raise even more taxes. This is like pulling the plug on a patient who is slowly making a recovery.

Mr. Speaker, I urge my Democratic colleagues to think clearly about their vote on the reconciliation rule and on final passage. It just may be the most important vote of your career.

A FLAWED VISION OF CHANGE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, this budget reconciliation that we are being asked to support today and to vote on reflects the deeply flawed vision of change for America that President Clinton has. He clearly has misunderstood and completely misinterpreted what the people want.

I had the opportunity last weekend to listen to the people of northeastern Ohio and find out what they want.

What they want is not bigger Government. They want less Government. They do not want higher taxes. They want lower taxes. They do not want less freedom. They want more freedom. That is what they are asking for.

Mr. Speaker, they want change, absolutely, but they want the kind of change that the President was elected for. They want the kind of change that the President promised.

In my town meetings last week, they said, "Cut spending first; don't raise taxes."

What is the bottom line here. The bottom line is that the President gets everything that he asked for. He will increase the national debt by over $1 trillion in the next 4 years.

Just for everyone's information, that is the same amount of money that the debt increased during Ronald Reagan's first term, the same amount that the debt increased during Ronald Reagan's second term, the same amount that the debt increased during George Bush's 4 years in office.

Nothing has changed.

IN SUPPORT OF PRESIDENT CLINTON'S BUDGET RECONCILIATION AMENDMENT

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, I rise this morning to urge my colleagues in the House to have courage. The courage to lead.

When you get right down to it, the fundamental issue we are confronted with today is: Will the Democrats have the courage, and the guts, to govern this country? Are we fit to lead?

I say emphatically that we can govern effectively. And our vote today in support of the President's plan will demonstrate that.

When I cast my vote for this bill today I will be adding my voice in support of the President's economic agenda. That agenda puts a sizeable dent in the Republican-generated deficit. The working poor are helped, the middle class are given a break, and it begins to right the wrong-headed policies of failed Republican Presidents which have left thousands of hard-working men, women, and young people suffering for too long.

Let us give the President we helped to put in office the chance to lead this country.

□ 1230

ENERGY TAX DESTRUCTIVE TO WESTERN PENNSYLVANIA

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, I heard the gentleman from Ohio [Mr. TRAFICANT] come up and talk. His district is very much like mine. It is a blue collar, working class, heavy manufacturing district where we are very concerned about the manufacturing sector of our economy.

The President said he was going to take a laser beam to the economy. He certainly did. He took a laser beam and the photon torpedoes and he just blasted the Mon Valley in my district, and a lot of blue collar workers in western Pennsylvania who rely on manufacturing and production jobs to be able to earn a living and put food on the table. That is what this energy tax is going to do. That is what the inland waterway user tax is going to do to the Mon Valley and the Mon River communities that I represent.

This is wrong, Mr. President. Mr. President, you came to the Mon Valley during your election, you came to McKeesport. You stood in John F. Kennedy Square, and the throngs said they wanted some change. They did not want you to destroy their town. They did not want you to ruin their neighborhoods.

When you come back next time, Mr. President, to John F. Kennedy Square, there will not be anybody there.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded to address their remarks to the Chair.

TODAY THE CLINTON PICKPOCKETING BEGINS

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, the Democratic leadership has done it again. The rule we will consider today precludes the consideration of several significant amendments, including a vital amendment to protect Social Security recipients.

Last night, I joined the gentleman from Wisconsin [Mr. ROTH] and the gentleman from Illinois [Mr. HASTERT] in asking the Committee on Rules to permit consideration of an amendment to strike the provision in the bill which imposes a new onerous tax on our older Americans. The Roth amendment is fair, and it would have given each and every one of us a chance to protect older Americans. Now more than 9 million seniors are going to get whacked.

Mr. Speaker, Mr. Clinton made many promises during the campaign. Sadly, he has broken many of those promises, and the trust deficit, as David Broder has coined it, is so bad that we do not know from one day to the next whether or not Mr. Clinton is going to keep this

promise or keep that promise, he has broken so many.

Instead of a tax cut for the middle class, the middle class is going to get a tax increase. Make no mistake about it, Mr. Speaker, the tax hike Mr. Clinton wants to impose on all Americans, especially the middle class, will hurt hard-working families and will cripple jobs.

Mr. Bush had said during the campaign, "Watch out, he is coming for your wallet." Today the Clinton pickpocketing begins.

THE BTU TAX WOULD HIT ALASKA HARDEST

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, virtually all Alaskans agree that the Federal deficit and national debt are major problems which must be addressed immediately.

It is our job, and the President's job, to focus on how we can best solve the problem.

President Clinton has chosen to address the issue with a tax and spend program.

I disagree with this approach because it will not accomplish what he has promised.

Today, we are considering a plan to establish a Btu tax, a new tax which is not only unfair, but also unwise.

My main concern is that this new tax would be extremely unfair to Alaskans as we will be taxed more per capita than any other State in the Nation.

This is not an equitable tax, it is the equivalent of a sin tax on Alaskans because we live in the coldest climate and we have a major reliance on air and sea transportation because of our location and great size.

I have reviewed studies which estimate the national average cost of the Btu tax to be $471 for a family of four.

This is a large tax for any family.

But it gets worse. The studies also estimate the average cost of the Btu tax for an Alaskan family will be over $1,500, almost 400 percent higher than the national average.

Because of this gross inequity and my firm opposition to continued efforts by the President to raise taxes, I will not support this proposal.

This is not good government, just more government fueled by increased taxes.

We should be cutting Government spending, not creating a Btu tax.

Mr. Speaker, I urge my colleagues to join me in opposing this ill-conceived proposal.

THE CLINTON TAX AND SPEND PACKAGE

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, money does not grow on trees. Jobs do not grow on trees, either. The House decided in its wisdom last night to take away money from our valuable SBA Program, and it approved $14 million for a tree planting program. When needed programs like the Small Business Administration section 7a loan program has been without funding for several weeks, this House ends up wanting to plant trees. That money could have leveraged almost $300 million in additional lending to job-creating small businesses throughout the 7a loan program, and yet we end up wanting to plant trees.

Mr. Speaker, where are our priorities? The President told us reducing the deficit was a top priority, but he offers the American people a plan and imposes the largest tax increase in the history of our country, and then increases our debt from $4.1 trillion to over $6 trillion in the next 5 years.

The President says he wants to create jobs, but he offers the American people a plan that guts their defense budget and puts millions of Americans out of work. The President's Btu tax proposal will impose $71 billion in new taxes on the American people over the next 5 years, and eliminates 400,000 to 600,000 jobs in the process.

In New Hampshire alone, the National Tax Foundation in my district says that we will lose 1,047 jobs and in the Second District 1,060 jobs, a total of 2,107 jobs.

This is bad business. We ought to cut spending first, and have less taxes and smaller government. That is the way we do it in New Hampshire. That is the way we ought to do it in the United States.

THE BTU TAX TARGET: RURAL AMERICA

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I rise today in strong and adamant opposition to the proposed Btu energy tax.

Since President Clinton unveiled his program in February, countless letters have flooded my office from rural constituents opposed to the energy tax. Working poor constituents and elderly folks on fixed incomes have written me, scared that the Btu tax will eat up their disposable income. I've spent hours meeting with farmers, small businessmen, and residents from rural Pennsylvania who have related how this energy tax would adversely affect them.

After reading articles and white papers, hearing testimony from experts, and listening to my constituents, there's no doubt in my mind that this ill-conceived tax is a threat to the well-being of individual taxpayers, employers, and the economy as a whole. While yielding little significant environmental benefit, this broad-based energy tax will act as a drag on our sluggish economy, forcing more people out of work and actually reducing tax revenues—the opposite of what the tax is intended to do.

In my congressional district, the tax will weaken the rural area's tenuous economic base. Spanning 17 counties, my district is the approximate geographic size of Connecticut with a very low population density. Farming, which is very energy intensive, remains a integral part of the local economy. Small businesses—whose profit margins are slim—provide most of the area's job growth as is the case nationwide. But the bread and butter high wage, high skill jobs are in manufacturing which is already overburdened by excessive State and Federal taxes. The antigrowth Btu tax will kill jobs in all of these industries, leaving our rural economy even more unstable.

On top of this, because of the tax's regressiveness and my district's demographic and geographic characteristics, my constituents will be hit unusually hard by Btu tax. As one Pennsylvanian told me, "The Btu tax has the Fifth Congressional District in its crosshairs" and President Clinton is ready to pull the trigger.

The Clinton administration has insisted that the Btu tax is regionally fair, but nothing could be further from the truth. Just because a more onerous inequitable tax could have been devised does not mean this one is fair. No one can deny that this tax will fall heaviest on rural America. Rural residents must travel greater distances to work, school, the grocery store, and the doctor's office. They are entirely dependent on automobiles since they do not have the luxury of opting for mass transit like their urban counterparts. In day-to-day activities, rural residents are forced to consume more energy, and the energy tax will penalize them on the basis of where they live.

Mr. Speaker, President Clinton's Btu tax will be devastating to rural economies across America, and I urge my colleagues to join me in opposing this destructive tax.

AMERICA REJECTS TAX-AND-SPEND AGENDA

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, in the 1992 election cycle, the American people thought they were voting for change. Candidate Clinton promised real spending cuts, real deficit reduction, and a middle-class tax cut. Candidate Clinton promised to grow the economy and create new jobs.

Unfortunately, something crucial was lost in the transition from campaigning to governing. Instead of honest change, President Clinton is offering the American people more of the same—tax, borrow, and spend.

Instead of honest spending cuts, the President is proposing $172 billion in higher spending. Instead of halving the deficit over 4 years, the President's plan will create $1 trillion in new debt. Instead of a middle-class tax cut, the President is proposing the largest tax increase in history, totaling $273 billion. Instead of growing the economy, the President's plan will grow the Federal Government and destroy American jobs.

Despite the President's appealing rhetoric of downsizing Government and cutting waste, there is very little in terms of real spending restraint in the Clinton program.

The American people have looked beyond the President's appealing rhetoric of change to find more of the same—higher taxes, higher spending, and higher deficits. This frustration is reflected in a new CNN/USA Today poll. The President's job approval rating has hit a new low, with 44 percent approving his job performance and 46 percent disapproving.

The message is clear. The people want the Congress to reject the President's tax-and-spend agenda, and to cut spending first. And they are watching.

□ 1240

VOTE "NO" ON BUDGET RECONCILIATION

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, no nation in history has ever taxed itself into economic recovery. In 1990, only 33 Republicans voted for President Bush's tax increase, and most of them are sorry for that today.

With an 82-vote advantage in the House, something is wrong when the other side of the aisle cannot pass it. On the plane, several of my colleagues from the other side of the aisle said their constituents in townhall meetings, Democratic constituents, said, "Don't raise our taxes or you're not coming back."

Two minutes ago in the aisle another Democratic Member friend of mine said, "DUKE, I've got a call from AL GORE four different times trying to pressure me to vote for this thing."

If you have to whip it that hard in the House, something is wrong.

In 1986 there was a flat tax, Gramm-Rudman which did not solve the problem. In 1990 caps were supposed to have started. Since 1940, spending has increased $1.59.

The American people do not believe if you increase taxes and cut later that it is going to work. The President says that there is no tax on the middle class. Well, Mr. Speaker, you have the Btu tax, the gas tax, sales tax, and people do not believe it.

I would ask my colleagues on the other side not to support the budget.

PASS THE LARGEST BUDGET DEFICIT REDUCTION IN HISTORY

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, in 1980 the annual Federal deficit of this country was around $74 billion. By 1986 it had risen to over $200 billion, and by the end of the 12 years of the Reagan-Bush administrations it was over $300 billion.

In 1980 the entire national indebtedness of this country that was accumulated over a 200-year period was approximately $1 trillion. At the end of the Reagan-Bush era it was $4 trillion, $3 trillion more than when it started out.

This Congress during that period, only with one exception, voted less of a deficit than was sent over by the administration.

Ladies and gentlemen, the deficit figures during the 1980's are the proof of the pudding as to why we find ourselves in this tight financial position today. We now have a President who has advocated and pushed forward the largest budget deficit reduction in the history of the country. We must support it.

AMERICAN PEOPLE ARE LOSERS WITH PASSAGE OF TAX INCREASES

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, here is what bothers me about this tax-and-pain which we are going to address today: If the President's tax bill wins, the ultimate loser will be the American people.

One of the worst aspects of this proposal is the new energy, Btu tax that will especially hit those on lower incomes and those people on fixed incomes.

The bottom line is that this energy, Btu tax fails the basic test of good government, the test of fairness. That was the President's test.

We will all pay more taxes to help reduce our deficit, but those who can least afford to pay more money are going to be asked to pay more under this test.

The Bureau of Labor Statistics reports that the middle class spent 7 percent of their income on energy in 1991. At the same time, the poorest one-fifth of Americans spent 22 percent of their income on energy expenses. To make this imbalance even greater is neither fair nor right.

Moreover, the energy tax has an adverse impact on areas of this country that is unfair. In my State it will cost each family an additional $300.

Let us ax this tax and make this country fair.

BUDGET RECONCILIATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Ms. DELAURO. Mr. Speaker, today we will cast the most important vote of this Congress. This vote will not simply define this Congress. It will define this country. On this vote hangs our future, and on this vote we will stake our reputation. It will be the measure of our courage and the greatest test of our will.

For 12 years our Nation's leaders have run from our problems. The day has finally come when we show the American people that we will not continue to turn our backs on the challenges before us—that we will stand and fight. And if we do not show them that we can govern, that we will make the tough choices to fix what is wrong, then the American people—will turn their backs on us.

Without public confidence in the integrity of Government we cannot govern. If the people lose faith in democracy—and they are dangerously close—then all we stand for is lost. That is the choice we make here today.

The choices we are being asked to make are painful. No one wants to raise taxes, and I have fought hard against them, but this package asks the wealthy to pay their fair share, and provides half a trillion dollars in deficit reduction, half a trillion dollars to ease the mortgage on our children's future.

Mr. Speaker, I urge my colleagues to strengthen this body, to show that we can govern, to look to the future. I urge them to vote for this bill.

SETTLEMENT OF PENDING TRADE CASES ON FLAT-ROLLED STEEL PRODUCTS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today the majority party is prepared to pass the President's Btu tax. This tax will cost Ohio 24,000 jobs and $1.3 billion in economic activity. The tax will be devastating to the quality of opportunity for Ohio citizens. Also I want to discuss another subject that threatens steel and steel-related jobs in Ohio and throughout the United States.

Ten foreign governments have filed proposals to the U.S. Department of Commerce requesting a settlement of 34 pending trade cases on flat-rolled steel products. The cases are part of a total of 84 actions now pending before Commerce and the ITC involving over $2.2 billion in product value. It is the largest legal action ever taken under U.S. trade law.

If successful in obtaining the proposed suspension agreements, our trading partners and their companies, will be able to trade an admission of guilt for a suspension agreement that exempts them from punitive duties that would otherwise be leveled on the unfairly traded products. The agreements would essentially create steel quotas which we found were largely unsuccessful in the 1980s for stopping subsidies and dumping.

Quotas do not work and neither will the suspension agreements. The problem with world steel trade is structural overcapacity. This problem can only be resolved through the use of our trade laws to address the immediate symptoms, which are dumping and subsidies. A permanent resolution will be found in the successful conclusion of the multilateral steel accord and GATT Uruguay round.

I encourage the administration to let the process go forward and refuse outside settlements. To do otherwise will further diminish the effectiveness of these laws and compromise ongoing negotiations for an international agreement on steel trade set to resume next month in Geneva.

CUTTING SPENDING

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, on February 17 the President came into this Hall and told the American people we have to do three things: stimulate the economy; increase revenues; and cut government spending.

On March 19, this body approved the stimulus package.

Today, after 12 years of deep and painful reductions which cut the muscle out of many Federal programs, we are considering legislation to cut spending even further.

In many of the programs we'll cut today, there is precious little left to cut. Presidents Reagan and Bush already cut them to the bone.

But we'll cut them because we know we have to bite the bullet and reduce the deficit.

Now, some of us progressive Democrats have probably made a mistake, here. We haven't made enough noise about the real cuts being made today.

We've allowed those on the other side to clamor on and on about revenue increases as if there weren't any significant cuts in this bill. But there are lots of them.

In our desire to be responsible, we are making cuts in this legislation which the American people are really going to feel, especially when the appropriations bills move out of here over the next 3 months.

The $50 billion we're cutting out of Medicare in this bill today is going to have an impact on senior citizens, and on small and large businesses.

The Federal Government will save $50 billion, but we are shifting—make no mistake about it, that's what we're doing—we are simply shifting that cost onto the private sector. They are going to pay for that.

Every Member of this body will see these kinds of cuts, not just across the Nation, but back home in their own district. In my area we'll see cuts in the Bonneville Power Administration, cuts in electric power that are going to be devastating to our economy.

These are real and painful cuts, and they are being made despite 12 years of cuts that in many instances have already gone too deep.

Those on the other side completely ignore this fact.

They ignore or minimize the cuts made by this bill. Instead, they pretend this is a bill that only raises revenues.

Not only are they wrong, Mr. Speaker, but I will predict that within a month, those on the other side who argue today that the cuts in this bill don't go far enough will be back here complaining that they go too deep.

They'll be back up here in about a month to say they didn't favor these cuts. They didn't think these cuts were going to be made in that area.

IMPACT OF THE ENERGY TAX

(Mr. ROYCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYCE. Mr. Speaker, I just received an estimate from the Tax Foundation on the effects of President Clinton's tax plan on California. According to Dr. Arthur Hall, the senior economist at the Tax Foundation, he says that if the President's new energy tax is enacted it will cost the Nation 463,000 jobs. For California alone, the job loss will be 54,000 jobs.

Mr. Speaker, the President is promoting this plan as a job creation, economic stimulus plan. But according to the Tax Foundation, it will be a job-destroying plan.

Mr. Speaker, we cannot afford this kind of help. This new tax attacks the very engine on economic growth in our economy. It attacks small business and it attacks the consumer.

□ 1250

Past experience shows that it will just go to fuel new Government spending. That is the one thing that Congress always increases, spending. New social spending goes up every year, year after year.

I ask my colleagues to vote "no" on this bill.

NOW IS THE TIME TO MAKE HARD CHOICES

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, I conditioned my support of this rule and the reconciliation package on the addition of effective enforcement mechanisms to assure all revenues go directly and only to deficit reduction.

This bill includes the deficit reduction trust fund and a hard freeze on all discretionary spending for 5 years. This bill will achieve the largest deficit reduction in history.

Getting the deficit monster under control is critical to retain and build high-skilled, high-wage jobs. We must free up the vital capital that is being siphoned away by deficit spending so that the market can invest in new industries and new growth. That is our children's future.

When I got elected to Congress, I vowed to listen to my constituents and then to lead. I have spent months listening in public forums, in front of markets and shipping malls, in my office, and to the intelligent ideas in my mail box.

Now is the time to lead, to make the hard choices I was elected to make.

I rise in support of this rule and this package which provide the real and substantial deficit reduction my constituents and our country are demanding.

LET US GET ON WITH JOBS FOR YOUNG AMERICANS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, this past weekend I had the opportunity to attend my own daughter's graduation from law school. I have another getting her master's degree. This is a mother bragging up here this year.

But our colleagues will be attending graduations in the weeks ahead, either personally or in their official capacities, and when they do, they will see a new phenomenon that I do not think I saw present in graduations in years gone by, and that is there is almost a lever of despair among these graduates because of the lack of prospects for jobs when they get out of school.

We all know that graduations are called commencements. We were told when we were in school commencement that it was the beginning. It may have

seemed like the end to our education, formal education, but it was the commencement of the new life, the new beginning as we went out into the world.

For these graduates, graduating in May and June 1993, the new beginning is a dismal one, and for their families it is as well, because we have been having what is called the jobless recovery in our country.

How much is it going to take? When will the Republicans get the message that we need to reduce the deficit, reduce the cost of capital, so that small businesses can create jobs and give hope to these new graduates? I urge my colleagues to support the President's package today so that we can get on with the jobs for young Americans. It is about reducing the deficit. It is about governing our country.

CLINTON'S BUDGET IS A LOSE-LOSE PROPOSITION

(Mr. BACHUS of Alabama asked and was given permission to address the House for 1 minute.)

Mr. BACHUS of Alabama. Mr. Speaker, I have a new silver dollar in my hand, and this new silver dollar has two sides to it.

At the start of a Southeastern Conference football game, this coin is tossed in the air, and the referee says, "Heads, you win; tails, you lose." Like this two-sided coin, the Clinton budget bill has two sides. One side is a tax increase—the largest tax increase in the world, and most Americans know that.

But the other side of this coin—of the Clinton budget plan is something else, and it's not spending cuts; it's spending increases: $165 billion in new domestic spending, adding $1.2 trillion to the deficit, growing Government by 20 percent over the next 4 years, all charged to our children and grandchildren.

Mr. Speaker, with most coins it is: Heads, you win; tails, you lose; but with the Clinton budget bill it is: Tax increases, the American people lose; spending increases, the American people lose.

There is something new about this coin, but there is absolutely nothing new about the Clinton proposal. It is tax and spend: Heads, you lose; tails, you lose.

SUPPORT THE PRESIDENT'S ECONOMIC PLAN

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, there are components of the Clinton plan which are not acceptable to me, but based on the rhetoric this morning, I think we need to put some things in perspective.

There is one alternative before us put together by the minority in the House of Representatives. For all the crocodile tears about protecting the middle class, oddly enough, over 75 percent of the tax benefits of that plan goes to the very wealthy and to corporations while, at the same time, reducing the deficit $140 billion less than what President Clinton's plan does, and while at the same time not itemizing where those cuts would be. It is one of those feel-good kinds of proposals that we have had the political demagogs talking about too often in the past.

At least you could say this for President Clinton: He is specific about his plan. It reduces the deficit more than any other plan in American history, and he is dealing with the American public as adults.

The other proposal we hear about is the Ross Perot proposal. It has some positive qualities, but $62 billion more in taxes than what President Clinton is talking about.

If you do not like a 7.5-cent gas tax, try a 50-cent gas tax while at the same time reducing the deficit less than President Clinton's plan does.

We have always had a lot of people sitting in the bleachers complaining about the people on the floor who are actually playing the game. It is time to get down and play the game ourselves with bipartisan support instead of this kind of wrangling.

MANY AMERICANS RICH UNDER PRESIDENT'S DEFINITION

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, in just 6 months the President has managed to make the whole country rich. No, he has not changed the Nation's living standards one iota, but he has changed the definition of "rich." In last year's campaign, only the rich were going to pay candidate Clinton's new taxes; the rich were defined as making $200,000. President-elect Clinton still said only the rich would pay his taxes, but the rich only had to make $100,000.

Now in office, President Bill Clinton says people making as little as $25,000 are rich enough to pay his Social Security tax. But $25,000 still excluded too many people from being rich enough to pay President Clinton's taxes, so he decided that everyone who has the money to buy a gallon of gas, a 40-watt light bulb, a lump of coal, or a kilowatt of electricity is rich enough to pay his energy tax. Regrettably, this whole charade just goes to prove that when President Clinton soaks the rich everyone takes a bath.

□ 1300

REPUBLICANS OFFER THE SAME OLD PROMISES

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, what we are hearing from this side of the aisle today is what I call the SOS message, or same old stuff; or the SOP message, same old promises. This is the same crowd who told us in 1981 that if we just adopted President Reagan's budget, that somehow we would get to zero deficits in 4 years. Instead, we wound up with $200 billion deficits as far as the eye can see. This is the same crowd that followed economic policies which doubled the income of the rich from $300,000 a year on average to $600,000, while everybody else in the country was losing ground. After 12 long years of failed promises, missed targets, protecting the rich, is it not finally time that we depart from that message of the past and give this President a chance to bring this economy back to its senses and to produce the kind of economic growth we need to give people a chance to make a decent living in this country again?

The President deserves this chance; stand aside and give it to him.

BUDGET RECONCILIATION BILL

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the Kasich Republican plan. The two choices today are clear.

The Republican plan cuts spending first—the Democrat plan taxes people first.

The Democrat plan imposes the largest tax increase in American history—$355 billion over 5 years. Tax increases represent 81 percent of the Democrat package, which will raise the national debt $1.5 trillion over the next 5 years—according to their own figures.

The Democrat plan will increase the deficit, destroy jobs, and stifle the economy just as it is struggling to recover.

The energy tax alone will cost 8,500 jobs in my home State of Minnesota, and almost 1,000 jobs in my Third District; 610,000 jobs will be lost nationally because of the energy tax, according to the National Association of Manufacturers [NAM]. And the energy tax will cut gross domestic product [GDP] by at least $30 billion each year, according to the independent economic consulting firm DRI/McGraw-Hill.

In addition, Northwest Airlines and its 24,000 Minnesota jobs will be put in serious jeopardy by the new energy tax.

The energy tax is a big hit on the middle class. The average family of four will see its energy bill go up by $425 a year, according to the nonpartisan Tax Foundation.

Middle-income families will be hit the hardest—just because the President and Congress refuse to cut spending.

Mr. Speaker, we need to cut spending first, and that's exactly what the Kasich Republican plan does. It reduces the budget deficit by $352 billion in spending cuts over the next 5 years—without increasing taxes.

Congress must say "no" to the largest tax increase in American history and say "no" to the energy tax which will kill American jobs.

Congress must cut spending first. Say "yes" to the Kasich substitute.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair announces that by mutual agreement with the leadership on both sides of the aisle, the Chair will limit to 13 the additional 1-minutes on each side.

LOWER INTEREST RATES MEAN LOWERED DEFICITS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, I have only been here 6 years before this one. I feel like I am living a Lewis Carroll novel. If it had not been for the sham, the fraud budgets submitted to this body in the preceding 12 years, we would not be in the fix we are in right now.

Let us look at the hard economics of just one little piece of this proposition: There is $14 trillion in debt held publicly and privately in this country. If you assume only four-tenths of 1 percent in interest rate drop because of finally getting serious about the deficit, we will more than cover all of the tax increases by savings in interest over the next 5 years.

But that four-tenths is one-half, one-half of what we have already realized in interest rate reductions because this country is counting, finally, on something serious being done on the deficit.

That is our responsibility today.

LET US DEFEAT THE RULE ON RECONCILIATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker and my Democratic colleagues, during a marathon Rules meeting last evening, 17 hours and ending at 4 a.m., this morning, if I look a little tired, scores and scores of Democrats and Republicans pleaded, pleaded for the right to come to this floor and offer amendments that would knock out the Btu tax, would knock out the Social Security tax. And, my colleagues, you were gagged, all of you, by your Speaker and your Rules Committee. You cannot offer any.

Members, you can spit out that gag, you can come to this floor, and you can do what this organization says, the National Committee to Preserve Social Security, it urges you to come to the floor and defeat the previous question, and you can then vote for that amendment you paraded upstairs and asked for.

The U.S. Chamber of Commerce urges you to defeat the previous question so that you can come to this floor and vote for your amendment wipe out that onerous Btu tax.

The Wall Street Journal goes on to say,

> The point is that Members shouldn't be able to claim that they oppose parts of the tax bill but were helpless to amend it. A vote for the closed rule is a vote for the largest tax increase in American history.

Be men and women, come down to this floor and stand up for your 585,000 constituents and vote "no" on the rule.

Let us do what the American people want us to do.

WE HAVE MADE THE TOUGH CHOICES

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, this women has come down to the floor and, like the gentleman before me, she is part of the process. The President made a plan, he made the tough choices, be presented the plan to us.

That plan went to the Committee on the Budget, where the tough choices were made.

Then the budget resolution, some thought that was a tough vote, but they had to make it, and they made it.

Now we are here in the budget reconciliation; many choices having been made, the process has reached the point where we can take a vote so that we can go forward in this country.

It is deficit reduction, it is investment in the country. The Btu, none of us likes to raise taxes; but the Btu, across the board, is as fair a tax as many we looked at; the carbon tax, the hydro tax, the oil import tax; much fairer.

Does any of us like taxes? No. But we are here today to break gridlock, to go forward, to show that we in the Congress can govern with the President.

TIME FOR A REAL CHANGE, CUT SPENDING, DON'T RAISE TAXES

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, President Clinton is trying to sell the American people the largest tax increase in our Nation's history by telling them someone else will pay the bill.

He has used the phony family economic income standard which counts employer health care coverage and pension contributions and the infamous imputed rent on the family home as income, to magically turn middle-class Americans into wealthy Americans.

Then, he claims that these newly wealthy Americans will bear the brunt of his tax increase—75 percent according to the distinguished majority leader this week.

The Democrats changed the formula used presently to compute wealth so they can issue the fallacious statement on the House floor in this debate. In fact, middle-income people will be considered rich and are going to be taxed.

The vote today creates new entitlements, does not eliminate a single Federal program, and places an extremely regressive Btu tax on every American.

History has shown that for $1 in new taxes, Congress spends $1.59, $2.37 in 1990. We will never tax our way out of the deficit. We have to cut spending first or we will never break out of the cycle of debt.

WE CAN LOWER THE DEFICIT BY VOTING FOR THE PRESIDENT'S PLAN

(Mr. PASTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASTOR. Mr. Speaker, when I voted against the balanced budget amendment, there were Republicans in my congressional district who criticized me, that I was not for reducing the deficit.

When I voted against the line-item veto, there were Republicans in my district who criticized me, that I was not doing enough to lower the deficit.

When I voted against the expanded rescission, again I was criticized because I was not doing enough to lower the deficit.

Well Mr. Speaker, today I am very proud to tell you I kept my promise, and I am going to lower the deficit by voting for this plan. For the first time, for the first time in 12 years, we are going to do something about the deficit. Today you will hear some of my colleagues on this side argue against, because they are still in the same plan of 12 years ago: line-item veto, balanced budget amendment—all rhetoric.

If they really want to do something about this deficit, they should join us and support this plan.

□ 1310

AMERICAN PEOPLE WANT SPENDING CUT FIRST

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the American people have sent a loud, clear message: Cut spending first, but if you are going to make us pay more taxes, at the very least, guarantee to us that every penny we pay goes to reduce the deficit, not for increased spending.

But, Mr. Speaker, you just do not get it. Your budget reconciliation package does just the opposite. It raises $2 of new taxes for every $1 in spending cuts, meaning that most of the new tax revenue will, in fact, go for new spending, not deficit reduction.

I offered a taxpayer protection amendment that would require that each year the deficit come down by an amount not less than the new taxes collected or the taxes are repealed, automatically and immediately.

No deficit reduction, no new taxes. But, your Rules Committee refused to allow the House to vote on this sensible amendment.

Mr. Speaker, you have sent a message back to the American people and I hope they are hearing it loud and clear: You are going to be saddled with huge permanent tax increases and 4 years from now the deficit will be larger than ever.

FIRST TIME IN 12 YEARS CONGRESS WILL REDUCE DEFICIT

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, for 12 years we have heard talk about deficit reduction and now for the first time we actually have an opportunity to do it. And what happens? My colleagues on the other side of the aisle want to find every reason possible why we ought not do it. They want to confuse the issue and talk about there are too many taxes and not enough spending cuts.

But the fact remains, Mr. Speaker, that this is the first time in 12 years that this Congress will reduce the deficit, and that is what is important. We will reduce the drag on our economy and we will begin to move forward on cutting both spending and the size of Government.

Another element that is significant in this package is tax fairness. Tax fairness, no matter how much they rant and rave about taxes on the other side of the aisle, the fact remains that most of the taxes in this package will be paid by the wealthy. Seventy percent of the taxes will be paid by the 6 percent who are the wealthiest in this country.

And do you know what? That is a change. That is called tax fairness.

We accomplish something very significant with this package. We reduce the deficit. We lower long-term interest rates, and that is what puts people back to work, because housing is stimulated, the economy is stimulated. We have already seen the bond market respond favorably to this package, the anticipation that this will pass.

We have had 12 years of stagnation and 12 years of rhetoric. I think it is great we are about to have a first year of movement, a first year of innovation and a first year of deficit reduction.

RONALD REAGAN KEPT HIS CAMPAIGN PROMISES

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I have been fascinated by some of the 1 minutes that have been delivered by our colleagues on the other side of the aisle.

The gentleman from Kansas [Mr. GLICKMAN] and the gentleman from Wisconsin [Mr. OBEY] talked about the fact that Democrats supported Ronald Reagan's economic growth package in 1981. Fifty of them came over and did that.

The gentleman from Kansas [Mr. GLICKMAN] said "what we should be doing is that Republicans should be giving President Clinton that same level of support.

"We have got to remember something, Mr. Speaker. Ronald Reagan was keeping his campaign promise. I never saw in that volume, Putting People First," a plan to increase the Btu tax. I never saw him putting people first a plan to increase the Social Security tax on retired Americans.

We want to support a plan that President Clinton will bring forward if it would in any way look like the campaign pledges he made to the American people last fall.

TODAY IS THE DAY TO PUT OUR VOTES WHERE OUR RHETORIC HAS BEEN

(Mr. SWIFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, one of the phrases that has become a clique in this country, when you talk about the deficit, is we have to bite the bullet. We have got to make the tough choices.

What we are being asked today is not popular. It would not be a tough choice if it were popular by definition.

We have to provide investment in this country which has been neglected for over a decade. We have to deal with the deficit, and that requires spending cuts which are only popular in the aggregate. The individual spending cuts are unpopular, and it involves taxes which is unpopular.

But it is very interesting to see the number of people who have used that rhetoric about biting the bullet and making the tough choices who are now finding all kinds of reasons to say today is not the day, this is not the vehicle.

This is a proposal that is more specific, more complete, more effective than anything that has been offered in the last 12 years.

Today is the day, this is the bullet, and it is time to put our votes where our rhetoric has been.

DO WE OWN GOVERNMENT OR DOES IT OWN US?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I wonder what Americans expect to own for $17,000? You might think you could put a downpayment on a home, buy a car, invest for your retirement, or finance part of a college education. Certainly for most Americans $17,000 is a great deal of money. But today, every American man, woman, and child already owes that $17,000 to pay their share of our national debt. By the time we have lived with the Clinton tax plan for 5 years, that share of debt will have increased to more than $20,000 for each person.

And what do we get for all that money? Even after all the sacrifice, we will still own an annual national budget deficit of several hundred billion dollars. And we will still own several hundred billion dollars of annual Government waste and pork that Democrats will not let us chop out.

The question is, do the American people own Government or does their Government own them? Sadly, the answer seems to be that American taxpayers have been bought, but not paid for.

OPPOSE BLIND-SIDE ECONOMICS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I rise in strong opposition to the Clinton tax increase, the largest tax increase in American history, which will hit the middle class, bring our economy to a standstill and in the end increase the deficit.

My friends on the other side of the aisle have characterized this plan as an attack on the deficit. Pure Clintonese.

I remember in this body in 1990 when they claimed that the 1990 tax increase would bring down the deficit. Instead, we got higher taxes and a higher deficit and that is exactly what this tax increase will do as well.

This proposal will not reduce the deficit because it does not eliminate one Federal domestic program. Get that.

The American people are being expected to suffer $300 billion in higher taxes, but they could not find even one little domestic program to eliminate, saying that they could not find one little program.

This plan will sock it to the middle class. If you take the Robin Hood rhetoric aside, the average American is going to pay considerably higher taxes after being promised a middle-class tax cut.

Well, Mr. Speaker, this is not supply-side economics. This is blind-side economics. The American people are going to wake up on April 15 next year and feel like they were hit by a truck from Arkansas.

AN OPPORTUNITY TO SAVE TAXPAYER MONEY

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, it is very obvious there is deep division within this House and differences of opinion today as we undertake this very important responsibility.

The one thing that unites us is our desire to find those items in the budget that we can declare unnecessary so that we can cut Federal spending.

I think there is strong agreement on that proposition on both sides of the aisle.

Well, I am here to help you with that very difficult process today, because within hours the General Accounting Office has just released testimony indicating that the price tag for the superconducting super collider, the single most expensive piece of scientific equipment ever contemplated for purchase in the history of man, has gone up another $4 billion.

Keep in mind a project that started out with a projected cost of $4.4 billion is now certified by the General Accounting Office to cost at least $11 billion.

Also keep in mind that we, this House, by an overwhelming vote approved a project if there was foreign participation of at least 20 percent of the total cost.

To date, Mr. Speaker, we do not have foreign participation, not the first yen from the Japanese. We are supposed to have $1.7 billion. We have got $15 million.

Here is an opportunity to save money, to get serious about priorities. Help us defeat the superconducting super collider.

DO THE REPUBLICANS REALLY SUPPORT BUDGET CUTS?

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, regarding the super collider superconductor, I support the gentleman's comments. I will be joining him in voting to cut out this funding, but I also challenge those who are listening today to check the rollcall for the Republicans. It seems that they come to the floor, they are for cutting all the programs, but when it comes to star wars, when it comes to the collider, well that is not spending. That is not deficit reduction, and they choose not to support those cuts.

It seems that ever since the Republicans lost the White House, they have magically found something in this country called the middle class. That same middle class that for 12 years they shunned, they raised taxes on and they have nothing to do with.

□ 1320

But now, after the George Bush defeat, they have all of a sudden found something in their district called the middle class. Well, here is a sampling of some of the tax cuts in the bill we are going to be taking up later this afternoon: A surcharge is imposed on increases over $250,000 a year. Is that middle class? Business club dues and lobby deductions eliminated. How many business class people are affected by that?

Mr. Speaker, it is a balanced package, and I ask the House to support it.

THE DR. KEVORKIAN PLAN FOR OUR ECONOMY

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, I listened with interest as one of my colleagues praised the Clinton tax increase plan because it is going to produce $200 billion deficits as far as the eye can see. That is, in fact, what it does, and the so-called deficit reduction is the result mostly of tax increases quantified, according to our official estimators, at about one-third trillion dollars. The trouble is that one-third trillion dollars in projected revenues will not be there because that is not the way tax rate increases and new taxes work. Higher taxes on individuals will mean less work, less savings, and less investment. Higher taxes on working senior citizens with incomes as low as $25,000 will mean less senior citizens working and being productive. Higher taxes on energy, we are told with authority, will cost over one-half million jobs in America.

Mr. Speaker, it is no wonder they call it biting the bullet. This is really the Dr. Kevorkian plan for our economy. It will kill jobs, kill businesses, and yes, kill even the higher tax revenues that these suicidal tax increasers hope to gain.

SOME DEMOCRATS SELL OUT FOR PEANUTS

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker and my colleagues, we all know that President Clinton and his allies here on Capitol Hill are doing everything they can, twisting arms, bending arms, to try to find enough votes to pass this bill today. They are making promises left and right to pick up the necessary votes they do not yet have.

And what promise was made late last night to pick up the votes of six or seven Democrat colleagues from the South? My colleagues will not believe it, Mr. Speaker. It was peanuts. Apparently last night the President offered to limit the amount of peanuts coming into this country to drive up the price of domestically produced peanuts. Not only are the Democrats today going to stick the American people with the largest increase in the history of this world, but they are going to stick it to every kid and their parents in this country who buys candy bars and peanut butter and jelly sandwiches.

Mr. Speaker, it is incredible, absolutely incredible, that six or seven of my colleagues have sold out for peanuts.

INTRODUCTION OF THE MICROENTERPRISE OPPORTUNITY EXPANSION ACT

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, today, I am introducing the Microenterprise Opportunity Expansion Act with a great sense of satisfaction and accomplishment over the prospects for microenterprises across the country.

In 1988, when I first began preparing microenterprise legislation, very few people in Government with whom I spoke were at all familiar with the concept of microenterprise development. In 1990, when I introduced the first bill in Congress to promote microenterprise in the United States, there were still only a few Members of Congress or congressional staff that were familiar with microenterprise programs and their benefits.

Now, in 1993, the landscape has been overhauled. Today, we have a President who vocally and frequently touts the virtues of promoting microenterprises. Additionally, a number of other Members of Congress have initiated other efforts on this subject including, most notably, H.R. 455, the Microenterprise and Asset Development Act, introduced by Representative TONY HALL, of which I am pleased to be a lead cosponsor. Finally, the public, the Congress, and the administration have come to recognize

the value of helping people help themselves and the importance of Government policies which tangibly assist these individuals.

Microenterprises are the very smallest businesses, having five or fewer employees, at least one of whom owns it. Often, microenterprises have no employees beyond the owner-operator(s), which is the reason that self-employment is often an issue. It is frequently seen as a road out of reliance on public assistance, although startup help is regularly needed.

Two examples from the Chicago-based Women's Self-Employment Project [WSEP] demonstrate the value of microenterprise programs and the need for this legislation.

Ms. Lynn Hardy was on welfare when she joined one of WSEP's programs in 1990. She used her first $1,500 loan to begin a graphic arts business known as Lynn's Designs. At first, Ms. Hardy limited her services to business cards and signs. Within 18 months, however, she expanded her services to calendars, posters, airbrushed T-shirts, and day care murals. Ms. Hardy borrowed from the loan fund a second time, using $3,500 to purchase supplies. Through her own strength, the support of other new entrepreneurs at the program, and WSEP capital, Ms. Hardy now supports herself and her three children. "Believe me," she wrote, "* * * it will be a success story for all low-income women—letting them know with trust in God, having a vision, and WSEP you can make it."

In contrast with Lynn Hardy's success, Ms. Bernice Jackson met Government-imposed obstacles that she simply could not hurdle. In 1987, she joined a different one of WSEP's programs and participated in the self-employment training. She then started her own cleaning business which she operated for 1 year. Ms. Jackson was forced to shut down her business because it generated too much money to allow her to keep her AFDC benefits, yet not enough money to replace the necessary health and child care benefits that she was receiving from AFDC. Fortunately, for Ms. Jackson, having benefited from the training she received at WSEP, she was able to find a full-time job and work her way off of welfare. Yet, according to Ms. Jackson, "If I had been allowed to continue receiving some of my public aid benefits, that would have given me a better chance to stay in business, and by now I think I would have reached my goal."

There are people like Lynn Hardy and Bernice Jackson all over the country, trying to start a microenterprise, trying to become self-sufficient, trying to get ahead. Often, however, they cannot find those first few dollars to start their company or the basic business training they need to maintain it. Many who do find the money and training are then running into governmental brick walls which block their progress.

Dedication and skill are in abundance. Unfortunately it takes more than that to succeed in the face of obstacles and shortages of assistance.

The most common type of help that is needed is a loan. Microenterprise programs which lend startup capital are now scattered across the country. They are most often nonprofit or local-government-run establishments and commonly disburse loans in amounts up to $10,000. Most of these microlenders also offer or require varying degrees of business training, continuing technical assistance and other means of support to ensure the success of the venture.

As a result, microenterprises have a very high rate of growth and the loan repayment rate overall is around 95 percent. In the case of the WSEP, their two programs have loan repayment rates of 95 and 100 percent. Even when the venture does not succeed over the long run, the training that the entrepreneurs receive helps them find employment and advance their careers otherwise, as happened with Bernice Jackson.

The Microenterprise Opportunity Expansion Act, which I am introducing today, aims both to eliminate Federal obstacles which stand in the way of success in this area and to increase the flow of capital to microlenders and microenterprises. The bill seeks to accomplish these goals through a variety of mechanisms.

First, it would distinguish between business and personal assets for purposes of AFDC so that business assets, including loans, would not be counted toward the eligibility requirement asset limitations of AFDC.

Second, it would exclude, for purposes of AFDC, income derived from a microenterprise for 2 years, so that aid continues during a transition period, unlike as in the case of Ms. Bernice Jackson.

Third, persons who are otherwise eligible to receive unemployment compensation payments would be able to continue to receive them even though they are starting up a microenterprise, and such payments could be combined in one lump sum payment at the start of the benefit period.

Fourth, to encourage banks to provide capital for these purposes, the bill would enable banks to receive credit under the Community Reinvestment Act for certain loans and grants that they make to microlenders and microenterprises.

Fifth, the legislation would enable thrift savings associations to receive credit toward their qualified thrift lending investment requirements under the Home Owners' Loan Act for loans made for these activities.

Sixth, it would clarify that CDBG funds could be used for administrative and operating costs of microlenders who offer training and technical assistance to their borrowers.

Seventh, the bill would create a Micro-Enteprise Technical and Operations Office [ME-TOO] in the Federal Reserve and the FDIC to function as a clearinghouse of information relating to microenterprises to encourage banks to provide funds for these purposes.

Finally, the bill calls for a study to be conducted to analyze the loan needs to enterprises that are larger than microenterprises yet smaller than small businesses.

Mr. Speaker, these measures, taken together, would open many avenues for individuals to begin their own businesses and, in many cases, elevate themselves from public assistance. It would also facilitate the efforts of groups, organizations, and lenders who are already working hard to lend a hand to these Americans.

In short, microenterprise is a good investment. It helps local communities, the economy as a whole, and, most importantly, Americans who have both needs and answers but insufficient resources. I encourage my colleagues to support this bill.

THE ROBIN HOOD DEMOCRAT PARTY

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, as we consider the budget reconciliation vote today, I cannot help but reflect back to a comment made by one of my high school constituents. He called the Democrat Party the Robin Hood Party because they would like to take from the rich to give to the poor.

Now the redistribution of wealth question is a serious issue, and it should not be belittled. However maybe the Robin Hood Democrat Party comparison has some merit to it, except our President and the Democrats would believe that anyone earning over $34,000 a year is rich.

Yes, Mr. Speaker, the Democrats would want to take from these individuals and give more money to Government programs and social welfare like spending programs.

Tax and spend? Robin Hood Party? Democrat Party? Maybe this youngster was not too far off. But someone please tell that $34,000 a year blue-collar worker that he is rich.

LET'S GET THE JOB DONE

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker and my colleagues, as you know, the time has come to be responsible, and the

time has come to do what we have to do. The time has come to be nonpartisan, and the time has come to do what is best for the country.

Mr. Speaker, the bill that we are going to vote on today has $500 billion in deficit reduction. Over $245 billion of that is in cuts.

I would like more cuts. Most of us would like more cuts. And I think we can achieve more cuts later this year.

But what is before us right now is $500 billion in deficit reduction, and all of us acknowledge that is the most important economic item on our agenda, to bring the deficit down.

As my colleagues know, we have been ducking these decisions for 12 years, and the deficit, the debt, has gone from $900 billion to over $4 trillion, and we simply have got to do something about it.

I like very few parts of the plan. I deplore tax increases. They are awful. But we all know that we cannot effectively deal with the deficit without both revenue increases and cuts.

Colleagues, we have no choice. I mean we have got to turn the corner on the deficit and on the debt issue.

This is our opportunity to do it. Let us do it and get the job done.

THE DIFFERENCE IS CLEAR

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute.)

Mr. HOEKSTRA. Mr. Speaker, today I applaud my Democrat colleagues on the floor of the House. Congratulations on breaking gridlock, and, most importantly, I say, "Thank you for clarifying the differences between the Democratic and Republican approaches to government."

Mr. Speaker, after the vote today the American people will know what the Democratic Party stands for: for more taxes, for more spending and, perhaps most importantly, the philosophical belief that problems can be solved in Washington rather than by empowering people at the local level. In 1994 the crucial decisions will be made because at that point in time voters will be able to hold the people of this House accountable for the decisions that I have heard described as the most important decision of this House.

□ 1330

The differences are clear. There will be no differences between hollow campaign promises, but the decisions will be made on the decisions we make here.

PUT SPENDING CUTS FIRST

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, yesterday, I appeared before the House Rules Committee, along with many of our Republican colleagues, to argue for the right to offer amendments to today's tax bill. With one exception, my colleagues and I were denied.

In examining the rule passed out of the Rules Committee, I must say that I am offended.

It allows for only 2 hours of debate on the most important bill of this decade. Too short a time for such an important and far-reaching measure.

Worse, the rule contains seven so-called self-executing provisions that are political payoffs to special interests to gain support for the bill.

Finally, a deal that was reached early this morning to curb entitlements is a sham.

As reported, although the details have not yet truly surfaced, all the entitlement cap does is call for Congress and the President to either raise taxes or cut spending when the caps are breached. This is nothing and fails to address the central problem.

Mr. Speaker, the American people want spending cuts first, before they are asked to give more of their hard-earned money to the Government to spend.

PIED PIPER LEADING MEMBERS DOWN WRONG ROAD

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Abraham Lincoln said you could fool all the people some of the time and some of the people all of the time, but you cannot fool all the people all the time. I would just say to my Democrat colleagues, if you look in the paper this morning you found that President Clinton's approval rating is now at 42 percent and his disapproval rating is at 48 percent, 48 percent. Do you know what? That is the largest in history, the largest in history.

Mr. Speaker, do you know why? It is because the American people have caught on to this President, who has broken every single promise he has made in his first 100 days in office.

And what is he doing? Like the Pied Piper, he is leading you down the path to political ruin. Now, make no mistake about it: if you vote for the largest tax increase in U.S. history, and you do not make the spending cuts that you should, many of you dear friends, whom I love so much, will not be back in 2 years. So think about that. Please do not follow this misled Pied Piper down the wrong road. It is going to ruin you. Do not do it. It is a big mistake.

ENOUGH IS ENOUGH

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, today the House will cast one of the most important votes of the year. We will vote on President Clinton's $340 billion tax and spend plan. I want my colleagues and constituents to know that I plan to vote "no" on that plan.

On the campaign trail the President said that he would put forth a plan that would cut spending $2 for every $1 raised in taxes. Shortly after being sworn in, that became a 1 to 1 ratio. But the plan that will come before us later today will raise $4 of taxes for every $1 in spending cuts.

Since I came to Congress, the people back home have been sending me a message which I have received loud and clear: Cut spending first. But that message apparently has not gotten through to the White House or to many Members of Congress.

Mr. Speaker, what these taxes will do is cause the American people to rebel against Washington. I live in the State of the Boston Tea Party, an earlier tax revolt. But this plan will cause an American Tea Party, from sea to shining sea, sending a message to Washington, enough is enough.

TIME TO TAKE ACTION

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, I have heard a lot of talk this morning, and I think that is exactly what the American people are sick and tired of. They are tired of doublespeak, they are tired of rhetoric, and they are tired of people saying just sweep it under the rug. They are tired of people saying it is morning in America, everything is going to be fine tomorrow.

Mr. Speaker, when you go to a doctor's office they give you the medicine, and then they give you the lollipop. What we have going on around here is just handing out lollipops.

This is a President who wants to lead. We are a Congress that has to govern. It is time for the talk to be over.

This is the biggest deficit reduction package in history, $500 billion in deficit reduction, over $200 billion in specific cuts. Yes, we hear about Ross Perot's plan, this one's plan, that one's plan. But if you actually look at the plans if those plans were ever brought to the floor, no one else would vote on them.

Mr. Speaker, I do not like everything about this plan, but at some point the debate is over. That is our democratic way. We have to take action, we have to lead, and we have to vote. I hope my good friends on both sides of the aisle will join us and give this President a chance to lead.

PRESIDENT'S BUDGET PENALIZES MIDDLE-INCOME AMERICA

(Mr. ARCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, with President Clinton's clear dislike for the oil industry, it is understandable that he would present a plan that punishes Texas, that costs Texas 37,000 jobs through his energy tax. But why does he have to punish the rest of the Nation?

The Tax Foundation has just issued a list of job losses for every single State in the United States of America that will result from this misguided tax. No other country in the world taxes its raw energy, because the industries in those countries must consume that energy to produce those products, and that must be passed on in higher prices.

Why does he penalize middle-income Americans $471 per year per family in the products that they buy that include energy? Why does he insist on this tax that will cost jobs, reduce the tax base of this country, and prevent us from gaining the extra revenue that we need to balance the budget?

AMERICA IS FOR ALL PEOPLE

(Mr. REYNOLDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, I rise today to let the American people know that for the first time in a long time in this body there is going to be some courage shown today and that we are not going to fall prey to the scare tactics from the other side of the aisle, telling people about what they are going to lose if they vote a certain way.

When I was running for office this past November, the Republican Party put out a saying that I was going to lose to my Republican opponent, that he had a real chance of beating me, because I was wrong on the issues. I got over 80 percent of the vote.

The fact of the matter is that for 12 years this body has done nothing but lapse behind. It is time for us to move forward and have some courage and include all Americans in our plan, not just the rich people, not just the people that have it made already. We have to expand this country and help people in this country, the middle class, the people who are less fortunate, to have a stake in this society. We have to believe that America is for everybody, not just for a few.

WASHINGTON POST EDITORIALS SUPPORT PRESIDENT

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, the last two editorials of the Washington Post say it all: Bill Clinton is right. The deficits that were allowed to accumulate over the past 12 years are one fiscal and the other social. Today the House Democrats have an opportunity to begin to reduce them both. Not quite to restore the Nation's fiscal health, but at least to put it on the path to restoration, and by providing the means to provide the ability to govern as well. Either they vote to do this, or they vote to let the country continue to drift irresponsibly and to think as before. That is their choice, the only choice.

The House Republicans are going to sit on their hands. They always do at budget time. They used to vote no even on their own President's budget. Look, Ma, no fingerprints, that is their ideal fiscal policy.

This President, elected with only 43 percent of the vote, has courageously done what his predecessors notoriously did not: he has proposed a restoration of fiscal discipline.

It may not be a perfect program, but what is? It is a solid one, and balanced. It would do what it says it would. His opponents have made no such proposal, not one that can pass, yes or no, with the country's well-being at stake. That is the question before the House. Yes is the vote they should stand and deliver.

□ 1340

IN SUPPORT OF THE RECONCILIATION PACKAGE

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, it is the style of the day to give one another the devil for his or her honest opinions. I do not think we need to do that. There is so much, as they say, good in the worst of us and bad in the best of us that it hardly becomes any of us to say very much about the rest of us.

Whatever happens today should be done with civility. There are honest differences of opinion. This is why I intend to support this reconciliation package.

First of all, 70 percent of the tax increases, as has been said, are on the people who enjoyed the largest tax cuts during the 1980's.

Second, I have two little boys, and I am not going to push this burden off on to them.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 187) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 187

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on agriculture: Mr. Smith of Michigan; and Mr. Everett of Alabama; and the

Committee on Merchant Marine and Fisheries: Mrs. Bentley of Maryland; and Mr. Taylor of North Carolina; and Mr. Torkildsen of Massachusetts; and the

Committee on Veterans' Affairs: Mr. Stearns of Florida; and Mr. King of New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 186 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 186

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. The modifications to the bill printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. All points of order against the bill, as modified, are waived. No amendment to the bill, as modified, shall be in order except the amendment in the nature of a substitute printed in part 2 of the report. The amendment in the nature of a substitute may be offered only by Representative Kasich of Ohio or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendment in the nature of a substitute are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as modified, to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit, which may not include instructions.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, respectfully, I make a point of order against House Resolution 186 on the grounds that it is in violation of House rule XI, clause 4(d).

Mr. Speaker, House rule XI, clause 4(d) provides that, and I quote,

Whenever the Committee on Rules reports a resolution repealing or amending any of the rules of the House of Representatives or part thereof it shall include in its report or in an accompanying document, number one, the text of any part of the rules of the House of Representatives which is proposed to be repealed and, number two, a comparative print of any part of the resolution making such an amendment, and any part of the rules of the House of Representatives to be amended, showing by an appropriate typographical device the omissions and insertions proposed to be made.

Mr. Speaker, House Resolution 186 provides that upon its adoption "Modifications to H.R. 2264, printed in part 1 of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole."

One of those modifications, Mr. Speaker, contained in the Committee on Rules report, adds a totally new title XV to the bill entitled "Budget Process."

Subtitle B of that title in the report is entitled "Amendment to the Congressional Budget and Impoundment Control Act of 1974; Conforming Amendments."

Section 15211 of that subtitle is entitled "Conforming Amendments to the rules of the House of Representatives." The section includes six separate, permanent, not temporary but permanent, amendments to the House Rules which amend: rule X, clause 4(g); rule XI, clause 2(L)(3)(B); rule XI, clause 2(L)(6); rule XI, clause 7; rule XXIII, clause 8; and rule XLIX, clause 2.

And yet, despite the fact that this resolution, upon its adoption, amends House rules in those six different parts, nowhere in the report of the Committee on Rules for this resolution is there any kind of comparative print showing the changes being made from the existing rules as is required in House rule XI, clause 4(d), which I cited earlier today.

Mr. Speaker, it will not do to argue that this change is being made in an order of business resolution. House rule XI does not differentiate between special rules and other resolutions reported from the Committee on Rules. It only refers to "a resolution repealing or amending any rule of the House" whenever it is reported by the Committee on Rules.

Mr. Speaker, the resolution clearly makes such changes, and the report must, therefore, include a comparative print showing those changes. Otherwise, I can assure my colleagues, Mr. Speaker, as I look at all of these changes, which I have here now, 90 percent of the Members of this House have never seen this document that I have in my hand here. I know almost 100 percent on our side, and I am sure only those who might have been active last night between the hours of 2 a.m. and 4 a.m. have any idea what is in here.

So it just is not right. If we had these comparatives showing the differences of what is being changed or repealed or added, at least we could make some kind of a fair judgment.

I, therefore, urge that my point of order be sustained.

The SPEAKER pro tempore. Does the gentleman from South Carolina [Mr. DERRICK] wish to be heard on the point of order?

Mr. DERRICK. Mr. Speaker, I wish to be heard on the point of order.

The gentleman from New York [Mr. SOLOMON] makes the point of order that the rule violates clause 4(D) of rule XI. This clause requires the Rules Committee to include a comparative print displaying changes to the rules of the House when the committee reports a resolution repealing or amending any rule.

House Resolution 186 modifies the text of the reconciliation bill. The bill as modified amends House rules. But the resolution under consideration does not, in itself, repeal or amend any rule of the House.

Mr. Speaker, I urge you to overrule the point of order.

Mr. SOLOMON. Mr. Speaker, if I might, I would like to be heard additionally on the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, with all due respect to my colleague on the Committee on Rules, the gentleman from South Carolina, I guess what he has just said, that these are not really changes, in other words, this bill is going, once everybody votes for it, we vote for these huge tax increases and really nebulous spending cuts, this thing is going to go over to the Senate and nothing is really going to happen to it. It will come back here in a conference report, and it never becomes law. That is really what I was afraid of. That is why I wanted to raise the point of order, because I was sure that really this whole document is absolutely going nowhere and will never really reach the President's desk.

Mr. WALKER. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, it seems to me what I hear the gentleman from South Carolina saying is that the resolution does not so state these rules changes and so, therefore, they will not really take place. And the House should not have to fear them.

Understand, what he is suggesting is that the self-enacting amendments that the resolution makes in order are not directly spelled out in the resolution and so, therefore, should not have to be considered in all of this, because two of the self-enacting amendments are what the gentleman refers to in the changes in text.

□ 1350

We now have this rather strange situation on the floor where the Committee on Rules can come down, violate the fundamental rules of the House with self-enacting provisions, and claim that somehow these are not a part of their rule. They can go up and make deals in the dead of night behind closed doors, come out into the Committee on Rules, effect those deals, make them into self-enacting amendments where nobody has seen the text of them, and then come to the floor later on and claim that somehow these do not have any real effect. That simply is not the way in which the House should proceed.

Mr. Speaker, I would suggest that the gentleman from New York [Mr. SOLOMON] is absolutely correct. They are coming to the floor with an intention to change the rules of the House of Representatives. When we adopt this rule, we will adopt self-enacting provisions which, if finally adopted, will change the rules of the House and we will have no comparison between the two.

This would be an appalling precedent to set in the House, that what we are doing is trampling on the rules of the House without the proper procedures. It would certainly go along with how this budget resolution has been brought forward. The Chair, in all fairness, should sustain the point of order and should not simply take the majority party's opinion on this that is trying to ram through something extralegally.

Mr. DERRICK. Mr. Speaker, may I be heard additionally?

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from South Carolina [Mr. DERRICK] is recognized further.

Mr. DERRICK. Mr. Speaker, the gentleman, unfortunately, completely misunderstood what I said. What I said was that the changes do not effect until the reconciliation is passed.

The SPEAKER pro tempore (Mr. MCNULTY). The Chair is prepared to rule.

Clause 4(d) of rule XI requires the Committee on Rules to provide a comparative print of proposals to change the rules whenever it reports "a resolution repealing or amending any of the Rules of the House."

The jurisdiction of the Committee on Rules is not confined to the rules, how-

ever. It extends also to the order of business of the House. Thus, the committee is authorized to report a resolution providing a special order of business.

House Resolution 186 provides a special order of business. Its adoption would modify the text of H.R. 2264 to include certain changes in the rules, and would provide for the consideration of the bill, as modified, by the House. But House Resolution 186 does not, itself, repeal or amend any rule of the House. Only the bill—H.R. 2264—would, if enacted into law, amend House rules. Consequently, the requirement of clause 4(d) of rule XI is not applicable.

Consistent with the precedent of February 24, 1993, the point of order is overruled.

Mr. SOLOMON. Mr. Speaker, I will not appeal the ruling of the Chair, out of comity, and we want to continue here, but I want to make it perfectly clear that we on this side do not accept the findings of the Speaker, and we would like that to show that for the RECORD. However, we will not appeal the Chair's ruling.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 186 makes in order consideration of H.R. 2264, the omnibus budget reconciliation bill. The rule provides for 2 hours of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. All points of order against consideration of the bill are waived. The modifications in part 1 of the report to accompany the rule will be considered as adopted in the House and in the Committee of the Whole. The rule waives all points of order against the bill, as modified.

The modifications consist of several technical amendments settling jurisdictional disputes or correcting the text and two new titles related to budget enforcement. The first title extends the caps and amends the Congressional Budget Act. The second title puts in place a tough, new procedure to ensure that we contain the explosive growth of entitlements.

No amendment is in order except the Kasich substitute printed in part 2 of the report, debatable for 1 hour and not subject to amendment. All points of order are waived against the substitute. Finally, the rule provides one motion to recommit which may not contain instructions.

Mr. Speaker, last November the American people sent us a signal that they wanted change. The people wanted change from the borrow-and-spend policies of the 1980's. The people are tired of government policies that lead to high interest rates, high unemployment, and a stagnant economy.

President Clinton offered our people hope for the future in the form of a plan to begin the process of restoring the American dream for us and our children. Last March, this Congress approved, in record time, a budget resolution embodying the blueprint of the President's economic plan.

That resolution called for deficit reduction of $500 billion over 5 years through a combination of spending cuts and tax increases, and instructed 13 House committees to write legislation cutting spending and raising taxes to achieve those savings.

Mr. Speaker, H.R. 2264 is the fruit of that effort and the centerpiece of the President's economic plan, which is the largest deficit reduction plan ever considered in our history. This one piece of legislation will cut spending, increase revenues, and reduce the deficit by $343 billion over the next 5 years. The remainder of the nearly $500 billion in savings proposed by the President will come through cuts in discretionary programs and reduced borrowing costs.

Mr. Speaker, the people want us to hold the line on spending, and this plan holds the line on spending. For starters, the bill contains tough spending caps limiting discretionary spending to the 1993 level in each of the next 5 years. That's a hard freeze on domestic discretionary spending, at current levels, for the next 5 years. Never have we frozen so much spending for so long a period of time.

The people want us to cut entitlements. This bill cuts entitlements by $97 billion over 5 years. These cuts include:

$56 billion in Medicare and Medicaid cuts, on providers only;

$10.8 billion in the Federal employee retirement program;

$5 billion in reforms to education programs;

$3 billion in agriculture programs; and

$2.6 billion in various veterans programs, to name a few.

This legislation also requires businesses and individuals to contribute additional revenues to deficit reduction in an amount totaling $246 billion over 5 years.

For individuals, over 75 percent of the taxes in this bill will fall on households with incomes over $100,000—the top 6 percent of all families. Fully 63 percent of the individual taxes will come from households with incomes over $200,000.

The bill imposes a new 36 percent rate on taxable incomes above $115,000 for singles and $140,000 for couples. Families whose taxable incomes fall below those figures have absolutely nothing to fear from increased income taxes in this bill. For people with taxable incomes over $250,000, the bill imposes a 10-percent income surtax. These individual tax rates will help restore progressivity and fairness to the Tax Code.

The bill also requires the wealthiest Social Security beneficiaries, who now pay taxes on up to one-half of their benefits, to pay taxes on up to 85 percent of their benefits. This change will more closely conform the tax treatment of Social Security benefits to that of other contributory pensions. I would emphasize that even with the change, only those beneficiaries who already pay taxes on their benefits will be affected—fewer than one quarter of all beneficiaries. Moreover, even with the change, a retired couple making $60,000, including $13,000 in benefits, will pay less than two-thirds of the taxes paid by a working couple with that same amount of income.

Mr. Speaker, the only tax in this bill which will affect the overwhelming majority of American families is the energy tax. But this tax, which raises nearly $71.5 billion and is phased in over 3 years, is quite modest.

In 1994, a family earning $40,000 per year will pay energy taxes totaling about $1 per month. In 1995, that will rise to $7 per month, and in 1996 to $17 per month, according to both the Treasury Department and the Congressional Budget Office. Lower income households are shielded from increases by an expansion of the earned-income tax credit and increased energy assistance.

In addition to raising revenues, the energy tax will promote desirable public-policy goals. Among these are energy conservation, reducing our dependence on foreign oil, cleaning our air and water, and encouraging development of cleaner alternatives to oil. Reducing oil imports will help our worldwide balance of payments. Even with the tax, America will still have the cheapest energy of any of the world's top seven industrialized nations.

Mr. Speaker, this legislation also requires the business community to contribute to deficit reduction. The bill raises the corporate tax rate by 1 percentage point, to 35 percent, for corporations with taxable income over $10 million. The legislation closes loopholes by capping the executive pay deduction at $1 million and denying the deduction for lobbying expenses. In addition, the bill includes provisions intended to increase taxes paid by foreign firms on income from their U.S. operations.

At the same time, this legislation contains numerous tax breaks for businesses designed to spur investment and create jobs. Among them are many provisions for small businesses, including an increased expensing allowance, tar-

geted capital-gains incentives new start-ups, passive-loss reform, repeal of luxury taxes, and permanent extension of the targeted-jobs tax credit.

Mr. Speaker, this legislation has garnered the support of many of America's largest corporations, whose taxes would be increased, including General Motors, General Electric, General Mills, Procter & Gamble, IBM, Owens-Corning Fiberglas, Phillip Morris, Quaker Oats, Sara Lee, Disney, Westinghouse, Colgate-Palmolive, and Kellogg.

The bill has won the support of such diverse labor unions, trade associations, and citizen-watchdog organizations as the American Federation of Teachers, the Consumer Federation of America, the Child Welfare League, Families USA, the National Association of Homebuilders, the National Association of Realtors, the National Council of Senior Citizens, the United Auto Workers, the National Audubon Society, and the League of Conservation Voters.

Evidently these corporations and other organizations share the President's commitment to putting our economy and our country back on track, and are willing to help make that effort a reality.

Mr. Speaker, the reconciliation bill before this House is the centerpiece of the most ambitious, serious, and credible deficit-reduction proposal ever offered by a President. The question before this House today is quite simple. Will we have the courage to change direction, to move away from the borrow-and-spend policies of the last decade, in which we quadrupled our national debt, failed to invest in our country, and left our people's incomes stagnated, their futures imperiled, and their trust eroded? Or will we succumb to the special interests seeking to preserve the status quo, which is obviously not serving us well?

At last we have a President willing to lead this Nation out of the deficit wilderness. He has proposed tough medicine, to be sure. It is bitter medicine. But the choice is ours. Either we pass this landmark deficit-reduction bill today, and keep this process moving forward, or we abandon any chance for meaningful progress against the deficit for the foreseeable future. It is that simple.

Mr. Speaker, House Resolution 186 is a good rule, which will let us consider the President's plan and the principal Republican alternative to it, to be offered by the gentleman from Ohio. It is a fair rule and I urge my colleagues to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1400

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to make it very clear right up front what we intend to do on this rule. Right now this is virtually a gag rule permitting just one Republican substitute but no separate votes on three critical areas.

I am, therefore, urging Members to defeat the previous question so that I can offer an amendment to the rule that makes in order just three additional amendments, subject to 1 hour of debate each.

First, the Michel-Snowe amendment to strike the Btu, middle-class energy tax and replace it with real spending cuts;

Second, an Archer amendment to strike the tax increase on seniors' Social Security benefits; and

Third, a Stenholm substitute amendment for title XVI to provide entitlement caps with a real hammer enforcement mechanism.

That is all my amendment would do, as much as we would like to make in order all of the amendments presented to the Rules Committee. I think it is far better that we keep this previous question vote as simple as possible so that there is no mistake what your vote means.

To quote from this morning's Wall Street Journal editorial:

> The point is that Members shouldn't be able to claim they opposed parts of the tax bill but were helpless to amend it. A vote for the closed rule is a vote for the largest tax increase in American history.

Mr. Speaker, if you told the average constituent in my district that this week we are voting on a reconciliation bill, you would probably draw a blank look. That is inside-the-beltway budgetary jargon.

But if you tell that same constituent that we are considering the President's tax bill—the largest tax increase in history—there would be a look of instant recognition, shock, and outrage.

When the President first unveiled his tax program, I thought the President might just get away with the so-called Btu tax, because it was beyond the comprehension of most of the Btu might as well have stood for beyond taxpayer understanding.

But the public didn't take long to catch on to the Btu tax. In my district the people know it is going to hit them in the pocketbook at every turn—from the gas station, to the supermarket, to State and local taxes, to the home.

Today Btu is well understood to stand for, bleed taxpayers unconscious. It is a middle-class tax increase, plain and simple.

The same goes for the President's senior citizen tax increase. Try as the President may to depict this as a tax on upper income individuals, the seniors in my district who make $25,000 a year as individuals or $32,000 a year as couples hardly consider themselves wealthy. It's another tax on middle-class taxpayers—only in this case on those who are retired on fixed incomes.

Mr. Speaker, the purpose of a reconciliation bill is supposedly to bring our actual spending decisions into line with what we can afford-to reconcile our appetites with our incomes.

The problem is, as everyone knows, that the Government has a voracious appetite that can never be satisfied. And so, instead of curbing our appetite to match our income, we are being asked to increase that income to feed that Government appetite for more and more spending and more and more Government programs.

Unfortunately, the Government is not a self-supporting creature that has any income-producing, earning capacity. It must therefore depend on the incomes of others to satisfy its insatiable appetites.

And the others it must depend on most heavily are the great mass of middle-income workers who are barely getting by now on what they earn.

Yet they are being told by the President that they must sacrifice more for the good of their Government.

It is hard to believe that this is the same President who a few short months ago promised middle class taxpayers a tax cut, not a tax increase. You may recall this little campaign book put out by Governor Clinton and Senator GORE, entitled "Putting People First: How We Can All Change America."

On page 15 of that book there is a paragraph entitled "Middle Class Tax Fairness," in which coauthors Clinton and GORE promised, and I quote:

> We will lower the tax burden on middle-class Americans by asking the very wealthy to pay their fair share.

And it goes on:

> Middle-class taxpayers will have a choice between a children's tax credit or a significant reduction in their income tax rate.

Mr. Speaker, in the interests of truth in political advertising and labeling, I think the President and Vice President should publish a revised edition of their campaign book that reconciles their campaign promises with the reality of their record. This book should be entitled "Putting Taxes First: How We Will Shortchange America."

That is just what is happening in this so-called reconciliation bill. Instead of getting a tax break, middle-class Americans are getting shortchanged.

Well, Mr. Speaker, that is not the kind of change my constituents voted for. They did not send us here to raise their taxes. They sent us here to cut Government spending.

And that is why it is so important for us to change this unfair gag rule and make in order amendments that will do just that—take out the taxes on the middle-class and replace them with deeper spending cuts.

They want us to be able to offer amendments to strike the middle-class energy tax and the middle-class seniors tax, and replace them with spending cuts.

And yet the Democrat majority leadership, through its wholly owned sub-

sidiary, the Rules Committee, has said no to the American people and to these amendments.

Once again they have shut the people out of their own House for the sake of cramming the President's tax increases down the throats of middle-class taxpayers.

Mr. Speaker, the time has come for this House to do the right thing and say no to this antidemocratic and anti-middle-class rule.

I urge my colleagues to vote down the previous question so that we can offer a substitute rule that will allow for separate votes to strike the middle-class energy tax and the senior citizens tax and substitute spending cuts for them.

Vote down the previous question and for a rule that will allow us to offer responsible alternatives. That will take the tax burden off the backs of the middle-class, and put the deficit reduction burden back on the Congress by mandating spending cuts. That is what the American people want us to do.

This is one of the most critical and important votes you will cast in this session. Make no mistake about it, the people will not be fooled by any attempt to paint this as a procedural vote.

This is your vote on whether to tax or not to tax; to cut spending or not to cut spending. Vote "no" on the previous question and for our substitute rule. And, failing that, vote "no" on the rule.

SUMMARY OF SOLOMON AMENDMENT TO THE RECONCILIATION RULE (H. RES. 186)

The rule is identical to the rule reported by the Committee on Rules, but, in addition to the Kasich substitute already made in order by the rule, the following three additional amendments are made in order:

1. The Michel Amendment striking the Btu energy tax and providing off-setting spending cuts;

2. The Archer Amendment striking the tax increase on Social Security benefits and providing off-setting spending cuts; and

3. The Stenholm Amendment capping entitlements with a "real hammer" enforcement mechanism.

Like the Kasich substitute already made in order, each additional amendment is subject to one-hour of debate, is not subject to further amendment, and all points of order against the amendment are waived.

H. RES. 186

An amendment offered by Mr. SOLOMON of New York:

On page 2, strike all after the period at line 13 through the period at line 22 and insert in lieu thereof the following: "No amendment to the bill, as modified, shall be in order except: (1) an amendment relating to the Btu energy tax by Representative Michel of Illinois printed in the Congressional Record of May 26, 1993; (2) an amendment relating to the tax increase on Social Security tax benefits by Representative Archer of Texas printed in the Congressional Record of May 26, 1993; (3) a substitute amendment to Title XVI relating to entitlement caps by Representative Stenholm of Texas; and (4) an amendment in the nature of a substitute printed in part 2 of the Rules Committee report by Representative Kasich of Ohio. Said amendments may only be offered in the order specified and by the Member designated, or a designee, shall not be subject to amendment but shall be debatable for not to exceed one hour each, to be equally divided and controlled by the proponent or a Member opposed thereto, and all points of order against said amendments are hereby waived."

ROLL CALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE RULE FOR THE RECONCILIATION BILL, THURSDAY, MAY 27, 1993

The following motions were offered to the rule:

Motion number and subject:

1. Open-rule-plus substitute rule: Three hours of general debate, providing special consideration of designated amendments relating to Btu energy tax, Social Security tax, budget process reforms, waiving all points of order, and requiring pre-printing. Other amendments in Record. Other amendments subject to amendment under five-minute rule with no waivers. Kasich substitute in order at end of process amendable only by amendments previously adopted to bill, if applicable (but not subject to further debate).

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

2. Michel or Snowe amendment striking Btu tax with offsets.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

3. Archer amendment striking to Social Security tax with offsets.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

4. Goss amendment deleting Btu and Social Security taxes with offsetting spending cuts.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

5. En bloc motion for following amendments:

Thomas of California amendments (a) to self-execute out provision delaying indexation of tax rates; (b) to strike the provision and off-set by denying tax-exempt status to non-profits.

Kasich amendment making several budget process reforms.

Clinger amendment to clarify "emergency" designations under BEA.

McCandless amendment to replace deficit reduction account with Public Debt Reduction Trust Fund under Taxpayer Debt Buydown Act (H.R. 429, Rep. Walker).

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

6. Porter amendment to repeal taxes if deficit reduction does not occur under new deficit reduction account.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

7. En bloc motion for following amendments:

McMillan amendment relating to entitlement caps.

Kyl amendment to ratchet down federal spending to 19% of GDP by fiscal 1996.

Gekas amendment to reduce deficit to 0 by year 2000 setting deficit targets for each year.

Smith of Texas amendment to set aside 5% of salaries and expense accounts each year over 5-years, which would be rescinded if Congress takes no action to restore or alter.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

8. McCrery amendment to change effective dates of individual and corporate tax increases from Dec. 31, 1992 to Dec. 31, 1993, with offsets.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

9. Knollenberg amendment to hold income tax rate at 31% if engaged in small business activity.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

10. Houghton amendment to require payment of Social Security tax on domestic help if paid more than $800 a year.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

11. En bloc motion for following amendments:

Camp amendment to substitute immunization provisions which would focus on children in public welfare programs.

Johnson of CT amendments: (a) providing R&D tax credit for aerospace; (b) elective to withhold Federal taxes for unemployment compensation; permit states to opt for "select" Medicare programs; (e) exempt states and cities from Btu tax.

Torkildsen amendment to lower tax rate for individuals in S corporations from 39.6% to corporate rate of 35%.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

12. Gingrich amendments: (a) to increase amount of creditable wages under Targeted Jobs Tax Credit from maximum of $3,000 to $3,500 and expand the age of affected youth in program from 16-17 year olds to 14-21 year olds; (b) to eliminate so-called "marriage penalty" in the income tax; and (c) to eliminate marriage penalty in social security benefits.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

13. En bloc motion for following amendments:

Smith of Michigan amendments to index depreciable equipment for inflation, repeal onerous sections of minimum tax and reduce earlier depreciation deductions.

Collins of Georgia amendment to mandate loss of benefits if children of recipients drop out of school.

Roth amendment to eliminate Social Security tax with no offsets.

Allard amendment to cap the irrigation surtax.

Cox amendments on budget process reforms: (1) Fixed sum appropriations for entitlements; (2) require joint budget resolutions; and (3) prohibit "baseline" budgeting.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

14. Baesler amendment to eliminate Btu tax and offset with spending cuts.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

15. Stenholm amendments to establish entitlement caps and enforcement mechanisms for acting on over-runs.

Rejected: 3-8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

16. Strike prohibition in rule on motion to recommit with instructions.

Rejected: 3–8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

17. Adoption of rule: Modified closed rule, allowing two-hours of general debate, waiving points of order, self-executing seven amendments into bill by adoption of rule, making in order one substitute by Kasich subject to one-hour of debate; motion to recommit may not contain instructions.

Adopted: 8–3. Yeas: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter. Nays: Solomon, Dreier and Goss.

OPEN VERSUS RESTRICTIVE RULES—95TH–103D CONGRESSES

Congress (years)	Total rules granted [1]	Open rules [2]	Numbers percent	Restrictive rules [3]	Numbers percent
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	16	4	25	12	75

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: Rules Committee Calendars & Surveys of Activities, 95th–102d Congresses; "Notices of Action Taken," Committee on Rules, 103rd Congress, through May 27, 1993.

OPEN VERSUS RESTRICTIVE RULES—103D CONGRESS

Rule number and date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58—Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176 A: 259–164 (2/3/93)
H. Res. 59—Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171 A: 249–170 (2/4/93)
H. Res. 103—Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172 A: 237–178 (2/24/93)
H. Res. 106—Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166 A: 249–163 (3/3/93)
H. Res. 119—Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D–4; R–9)	8 (D–3; R–5)	PQ: 247–170 A: 248–170 (3/10/93)
H. Res. 132—Mar. 9, 1993	MC	H.R. 1335: Emergency supplemental approps.	37 (D–8; R–29)	1 (not submitted) (D–1; R–0)	A: 240–185 (3/18/93)
H. Res. 133—Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1–D not submitted) (D–2; R–2)	PQ: 250–172 A: 251–172 (3/18/93)
H. Res. 138—Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164 A: 247–169 (3/24/93)
H. Res. 147—Mar. 31, 1993	C	H.R. 1430: Increase public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168 A: 242–170 (4/1/93)
H. Res. 149—Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993.	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208 (4/28/93)
H. Res. 164—May 4, 1993	O	H.R. 820: Natl. Competitiveness Act	N/A	N/A	A: Voice Vote (5/5/93)
H. Res. 171—May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	N/A	N/A	A: Voice Vote (5/20/93)
H. Res. 172—May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	N/A	N/A	A: Voice Vote (5/24/93)
H. Res. 173—May 18, 1993	MC	S.J. Res. 45: U.S. forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (5/20/93)
H. Res. 183—May 25, 1993	O	H.R. 2244: 2d Supplemental Approps.	N/A	N/A	A: 251–174 (5/26/93)
H. Res. 186—May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	

Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

□ 1410

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

I would suggest that people back home want to do away with the deficit, and that is what we are trying to do.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, as a Democrat from an oil producing State, I rise in support of this rule and in support of the budget reconciliation bill.

For those of us from States like Texas, the easy vote would be to vote "no." Energy taxes are never popular in our part of the country, and the Btu tax has drawn a significant amount of criticism from oil and gas producing areas.

However, opposition to the President's program simply because it contains a controversial energy tax would be the wrong thing for this country.

The rule before us provides a fair framework to consider legitimate deficit reduction legislation.

And it is time that we considered legitimate deficit reduction legislation.

For 12 years, Ronald Reagan and George Bush paid lipservice to the deficit, but that is all. In the form of tax breaks for the wealthy, they served up spoons of sugar and told the American public it was strong medicine. Meanwhile, our budget deficit has grown out of control and our economy has become dangerously ill.

We now have a President with the guts to prescribe more than a placebo.

President Clinton has proposed a deficit reduction plan that lays out specific spending cuts and specific revenue sources. He has the courage to tell the American public that all is not well—that we can't expect our economy to get better taking the easy road or by doing nothing at all.

Yes the choices are tough. And, of course, today's vote will be hard. But, those of us in this body must join the President in telling the American public the truth.

The Btu tax proposed by the President spreads the burden of deficit reduction broadly, and in a fair and equitable fashion. It is part of an economic program that will result in substantially stronger economic growth due to declines in long-term interest rates, investments in education, and incentives for business investments. In the long run these positive economic factors will more than offset the burden of a Btu tax and will give working people in my State, and across this Nation, renewed hope and real opportunity.

Alternatives, such as an increase in the tax on gasoline or a reduction in Social Security benefits would hit my State much harder than a Btu tax. Those alternatives would once again place the biggest burden of deficit reduction on the backs of the poor, the elderly and middle-income working Americans.

And, of course doing nothing is not an alternative, it is forfeiting our responsibility to the American public. We can't wink and make the deficit go away. We can't talk it down or smile it into submission. We have to tell the American public the truth and make tough choices.

We now have a President with the guts to lead the way. Those of us in Congress need to join him or get out of the way.

□ 1420

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule and to the budget reconciliation.

Mr. Speaker, sometimes it is hard to tell just where to start; today it is nearly impossible.

Do I use by time to talk about irresponsible parliamentary procedure, or the failed budget process that brings us here to debate spending and taxing plans under which $300 billion deficits are acceptable and considered progress?

Do I use my time to talk about the disastrous Btu tax, or the fact that, taken as a whole, we are considering the largest tax increase in history? Or, I could start on whether the legislation before us is fair. It is not.

Again and again over the years, this urban-dominated body has not dealt fairly with rural America. Today, you are again asking the most productive sector of the economy—agriculture—to ante up more than its fair share.

We are debating perhaps the most important piece of legislation of this Congress, and we have only a total of 4 hours, after which we have only two choices: Take the majority's huge, comprehensive bill or take the minority's.

No chance to fine tune. No chance to individually amend any of the major provisions. No chance to balance and make more equitable the sacrifices that are inevitable with any real deficit reduction effort.

No. It is just up or down. Take it or leave. And then make sure you get on your plane this evening for Memorial Day recess. No wonder the country has such little faith in its Congress.

I could spend a couple of hours alone on my objections to farm spending cuts and the energy tax. I don't have time to also explain my opposition to the direct loan program, to the deficit reduction trust fund, to the Social Security provision, and so forth. And that's before we even get to the fine print, to such thing buried deep in the bill as irrigation surcharges.

Mr. Speaker, because time is so limited, I will sum up at this point by simply saying that I will be voting "no" today—"no" across the board. I will then more fully explain to my rural constituents why this is the vote that best represents their interests.

On taxes and agriculture, the majority's bill will impose a $72 billion energy tax and cut $3 billion from agriculture, more than enough to sap the energy out of farming. With the energy tax, farmers will ante up nearly $1 billion per year in out-of-pocket costs, despite the fact that agriculture got a partial exemption from the full effects of the energy tax. But ask any farmer what it is like to be partially exempted and you will hear that it is like being partially pregnant.

The fact is, nearly 10 percent of the energy tax will be shouldered by farmers and ranchers, who constitute less than 2 percent of the population.

Farmers, who will have to pay the full energy tax on fertilizers, electricity, and pesticides, and who will have to pay the full energy tax for transporting their products to market, will now have to compete on a playing field with foreign producers made even more unlevel by the Btu tax. The energy tax will destroy the $16 billion-plus agriculture trade surplus.

Moreover, because the bill increases the Inland Waterways Fuel Tax by 250 percent, transportation costs on the Mississippi Basin will increase, further exacerbating our competitiveness, and driving down domestic prices at the county elevator.

For Nebraska, which is the No. 1 agriculture exporting State per capita in the Nation, the Btu taxes and the 250-percent increase in the inland waterway fuel tax are nothing short of disaster.

On cuts in farm spending, I have serious concerns about the adverse economic impact on our agriculture producers of taking more than $3 billion out of their programs over the next 5 years. Both the majority's bill and the minority's ask agriculture to sacrifice more than its share.

I cannot find the equity or fairness in these spending cuts to an industry that has already taken, on average, a 9 percent cut each year since 1985. These cuts will come directly out of farm income and will further weaken the economic condition of many farmers.

And, Mr. Speaker, your bill asks us to swallow this at the same time we're expected to agree to more than a $7 billion increase in food stamp spending, a program that has more than doubled in cost in the last 10 years. Maybe your logic is that once you put the farmers out of business, they will swell the welfare roles.

My major objection to the majority's reconciliation package for agriculture is the 5 percent increase in the unpaid flex, or triple base acres, for a cut in farm spending of nearly $2 billion. This reduction comes on the heels of the 1990 budget reconciliation provision that just 2 years ago stripped the farmers of 15 percent of their cropland benefits.

And the bill increases flex acres without any corresponding reduction in conservation compliance requirements on those acres. This is simply not fair or sound policy.

According to the Food and Agricultural Research Policy Institute at the University of Missouri, a 5-percent increase in flex acres will reduce payments almost dollar for dollar from net farm income. For example, the study projects corn farmers' returns will decline around $3 per acre; wheat farmers' returns will fall by $1–$1.50 per acre; and cotton and rice returns will drop by $3–$5 per acre under this package.

How can we continue to ask for more and give less? This concept does not work in the business world, and it is not going to work through another Government program. This philosophy of reducing farm program spending and increasing mandates, is putting agricultural policy on a collision course with disaster.

I also have concerns about the proposal in the majority's bill to save $500 million by reorganizing the local USDA offices into single Farm Service Agencies. What happened to the top-to-bottom approach of reorganization? What happened to streamlining Washington and regional offices before cutting farmers' direct services.

Concerning the direct loan proposal as outlined in the majority's bill, I register my strong opposition. I find it somewhat ironic that included in a deficit reduction bill is a new direct loan program whose savings are, at best, dubious.

I had hoped that the gentleman from Tennessee [Mr. GORDON] could have offered an amendment to replace the direct loan provisions with those from H.R. 2219. H.R. 2219 would achieve the necessary budget savings by making changes in the current student loan system, rather than making a wholesale change to a direct loan system.

Direct loans, we are told, will miraculously save roughly $4.3 billion, yet we do not know for sure if direct loans will actually save that money. This is an entirely new program—untested.

H.R. 2219, on the other hand, would make real cuts in spending and provides real revenue to the Government from the current student loan system. This alternative would not force the Government to borrow $20 billion a year for the next 20 years, which is the case under the direct loan proposal.

H.R. 2219 would allow the $500 million-plus direct loan demonstration project, which Congress agreed to just last year, to continue. And, if this demonstration program proves that real savings to the Federal Government can be achieved and still provide loans to students, then I will be more than happy to join the proponents of direct loans in shelving the current program.

But alas, we will not have an opportunity to vote on H.R. 2219's provisions because Mr. GORDON decided not to try his amendment to the budget reconciliation bill, knowing of course that the script was already written for a closed rule. I only hope that Members from the other body will have the vision to replace the direct loan program with sensible and money saving changes in the current guaranteed student loan system.

Concerning the fine print, buried deep in the majority's bill is something rather innocuously known as the irrigation surcharge. Now, the word "surcharge" makes me believe that someone is aware that those who use water from Bureau of Reclamation facilities are already paying for this water—and I hope they know that these users are also paying for original construction costs and for the maintenance of these facilities.

And I hope they realize that a 50- or 75-cent charge for an acre-foot of water translates into dollars per acre of land. But my concerns about this surcharge go beyond the expenses this package would impose upon our Nation's agricultural producers. I am also concerned that this is so open ended—it comes with floors but no ceilings—and also that as we try today to put the budget in order we are creating another new spending program, one with no clearly specified goal.

In this instance we are not asking the Nation's irrigators to pitch in to help solve our budget problems. We are not asking for 50 or 75 cents to help retire the debt. We are not even asking them to help the gentleman from Wyoming finally fix the Buffalo Bill Dam.

So if it is not for these things, then I must ask just what it is for—why are we demanding that they choke up $67 million over the next 5 years? Not deficit reduction? Not improvements to reclamation projects that so many Americans enjoy for so many reasons? And what are these new unspecified spending programs? Is it really mitigation for unspecified environmental damages? I invite my colleagues to vacation Nebraska this summer and show me the damage.

Mr. Speaker, this is not reconciliation, this is punitive.

You know, try as we might, these big bulky pieces of paper we call budgets often do not do as they are told.

And I wonder what happens when this particular program fails to do as it is told—what if it fails to bring in the $10 or $15 million it is expected to raise each year? What happens

in the wet years—farmers will take it from the sky when they can get it—will the Bureau double the charge to make up for water not used? And the dry years? Farmers already pay for water that might not be there in the summer—will the farmer be penalized for not using enough water?

And for every irrigator for whom this is the last straw, does that pass the cost along to whoever's left?

Mr. Speaker, the so-called irrigation surcharge adds more uncertainty to an uncertain business. Agriculture is not unique in being an uncertain business, but it has gotten to the point where the Nation's agricultural producers are not asking for us to give them a break—they are only asking that we stop piling up.

It is late in the month but early in the year—at least that is what a lot of us were thinking as we sat here until 11:30 last night. Let us take the time to think about the consequences of this package now, not in 2 years when we cannot find anyone who will admit to voting for it.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I rise in strong opposition to the bill. This will cost Ohio 24,000 jobs, $1.3 billion in economic activity, and will depress our ability to compete in the world marketplace.

Mr. Speaker, I rise in opposition to this bill and want specifically to address my comments to the proposed energy tax. Most Americans probably have not focused on this issue, but they should.

This is a tax that will hit and hurt everyone in this country. It will increase the cost of energy in your home, it will increase the cost to produce and buy consumer goods and services, and will reduce our competitiveness in a global economy—that is, this tax will cost American jobs.

This tax is inequitable for a number of reasons, not the least of which is the geographic imbalance. It could prove devastating to the industrial Midwest, a region of the country which has yet to feel the full brunt of the recently enacted Clean Air Act amendments. Ohio is already poised to take a hit from the substantial expense of complying with the Clean Air Act. Compliance costs will actually peak in the 1997–2000 period, precisely the time the Btu tax burden reaches its peak.

Ohio, for example, ranks third in terms of total energy consumption and electricity consumption. Accordingly any energy tax will have a substantial impact on Ohio consumers both residential and industrial.

A broad-based energy tax is counterproductive to the President's goals, which I share, of improving economic growth and employment opportunities. In fact I believe it will result in slowed growth and cost American jobs by making our goods and services less competitive in the global market place.

Ohio and the Midwest in general, have been leaders in the Nation's economic resurgence. Manufacturing and exporting have been at the heart of the economic turnaround. The energy tax poses a substantial threat to some of the most successful and competitive elements of the Ohio economy and for many other regions dependent on heavy industry, manufacturing and exports.

Just a cursory review of the estimated impacts in Ohio alone are cause for concern. The Btu tax would take $1.3 billion from Ohio consumers and businesses, representing a 6.3 percent increase in the State's total energy costs. Three out of every ten manufacturing jobs in Ohio are in energy-intensive industries, 25 percent more than the national average. One out of every six Ohio manufacturing jobs is tied to exports, 10 percent more than the national average. The Btu tax would hit imported oil—but not energy-intensive imported products like cars, trucks, steel, and so forth, which would take jobs away from Ohio.

As a major industrial, energy-intensive State, Ohio would pay nearly 6 percent—three times its share—of the estimated $22 billion raised yearly by the energy tax.

The proposed Btu tax is estimated to cost 24,200 jobs in Ohio alone and 400,000–600,000 nationally adding about a one-half percent to the unemployment rate. Revenue estimates for this tax have not factored in added costs such as the attendant unemployment costs. An analysis by the Ohio Inter-Agency Task Force on the energy tax concluded that Ohio could lose six times as many jobs under an energy tax as it would under equivalent levels of reduced Government spending.

Energy costs are a key component in the cost of manufacturing and, one advantage U.S. industries currently enjoy over virtually all of their foreign competition, is lower energy prices. Despite increases in U.S. commercial-industrial electricity rates during the last 2 years, U.S. rates remain among the least expensive compared to rates in industrialized countries worldwide according to a survey by National Utility Service. If we are to strengthen the economy it will come in large measure through improving our competitive position in the global market place.

In recognition of this, other nations are now starting to reduce energy taxes. Sweden, for example, has lowered its energy tax on manufacturing companies by 85 percent.

Other nations also enjoy other competitive advantages. For example, we burden U.S. industries with costs related to such matters as OSHA, workers' compensation, EPA regulations, product liability and so on, that many of our foreign competitors do not have to contend with. Raising the cost of energy in the United States will deprive U.S. industry of one of its few advantages and place our global competitiveness in further jeopardy.

In general, the energy tax harms the economy nationwide by reducing the overall level of business activity—especially new investments that are critical for growth. Taxing the sectors of the economy that need to grow will only stifle economic growth.

The Btu tax will place most U.S. industries at a substantial competitive disadvantage in world markets. Access to reasonably priced energy resources is one of the United States' competitive edges in the global market. Increasing energy costs would disadvantage companies that export their products to foreign markets. The export will become American jobs as industrial production moves overseas to avoid higher overall costs in the U.S. imposed through the energy tax.

The Ohio Governor's Task Force concluded that reduced Government spending is more balanced and does far less damage to the economy, while providing the same deficit reduction benefits. If Ohio is any barometer the American people want us to take a harder look at the spending side of the equation before we act to impose the largest new tax burden in the Nation's history.

Additional spending cuts, fewer regulations, and business incentives should all be explored before imposing this potentially devastating new tax. We should consider incentives for growth in productivity, industrial investment, and exports—the true sources of job growth in a world economy. We should also explore incentives for energy efficiency and environmental improvements that directly support the environmental goals of the administration's proposals without incurring their inherent economic risks.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], our very distinguished Republican leader.

Mr. MICHEL. I thank the distinguished gentleman, the ranking member of the Committee on Rules, for yielding this time to me.

Mr. Speaker, I rise today in opposition to this rule.

A vote against this rule is a vote for giving every Member of the House a chance to do what we would like to do, vote up or down on the energy tax and possibly several other significant amendments that have broad-based support on both sides of the aisle.

I know Members of the other side have been under intense pressure to become Clinton clones. I know there have been little consciousness-raising sessions to stampede you toward the biggest tax rise in history, like lemmings headed over a cliff.

You have been told this is a procedural vote, some of you more junior Members; that it is only a parliamentary question. But make no mistake about it, this is not a procedural vote, it is a substantive vote that denies us the opportunity to open up the rule, to get at the Clinton energy tax.

And as I indicated, there would be those who would have other amendments to offer.

I went to the Committee on Rules and testified, along with Ms. SNOWE, on behalf of the amendment that we jointly sponsored to eliminate the energy tax.

Think for a moment about what the Clinton energy tax really means. It is not only a whopping $72 billion tax out of the pockets of all Americans over the next 5 years; it also represents a broken promise, as was so well stated by the gentleman from New York [Mr. SOLOMON].

Candidate Clinton promised middle-income Americans a tax cut, and President Clinton, now, wants to thrust on middle-income Americans an enormous tax increase in the form of the energy

tax. And make no mistake about it, it cuts right across the board to each and all. So much so, recognized by the administration, that they have in there an item for an increase in earned income tax credit of something like $28 billion, an increase of the Food Stamp Program of over $7 billion now bringing that program to a total of $32 billion, to make up for the losses of lower income Americans who would suffer from the energy tax.

At exactly the same time in American history when the American people are sickened to death of political cynicism can we in all conscience vote for a rule which in effect ratifies a broken promise? Make no mistake about it, I will tell you there is not one job created by this energy tax; it is a job loser.

And I might say to the gentleman who just preceded me in the well, if the Tax Foundation's figures are correct, he loses roughly 1,008 jobs by the enactment of the energy tax in his district. In my district the job loss would be 1,146. If those on the other side of the aisle vote for this rule, you may please your leadership today and the White House may be grateful to you tomorrow, but what about your constituents who are going to have to live with the effects of your vote in the weeks and months after today and tomorrow?

Day after day, tomorrow after tomorrow, in every purchase they make, every trip they take, in every school, in every church, in every workplace, in every home, in ways that they may not even be aware of, the Clinton energy tax will be a silent, greedy destroyer of their family budget. And they will remember who set loose this dreadful virus into the economic bloodstream of our Nation.

Let us face it, the Clinton White House is out of touch, it is out of sync, it is out of ideas, it is out of excuses, and out of control. The American people are out of patience. And if you vote for this rule, you will put them permanently out of pocket and out of work.

I urge you to vote against the previous question and against the rule. Vote against government by broken promises; vote against the most insidious, invidious, pestiferous, omnivorous, depressive, regressive, voracious, and audacious tax in American history.

I urge you to vote "no" on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, there is a cancer growing in our Nation's fiscal body and that cancer is the bulging Federal deficit. The choice the House faces today is between whether we embark on a bold yet painful course of treatment for the cancer or whether we further delay while the cancer grows and festers and continues to eat away at the economic vitality of our Nation. The choice will determine whether our Nation returns to fiscal health and the lives of our citizens become more fruitful and productive or whether we continue to slowly deteriorate as a Nation that lacks the discipline, leadership, and self-sacrifice to correct its profligate ways.

The President was elected to treat this cancer and he has courageously done so by proposing a balanced, disciplined treatment plan that is expected to reduce the deficit by more than $500 billion over the next 5 years. It is the largest deficit reduction plan ever proposed and it relies on both spending cuts and tax increases for deficit savings.

The President's plan is not perfect. If it is enacted the budget deficit 5 years from now will still be high. But without the President's plan, the deficit will be more than 40-percent higher than it is today. The President's plan does include large tax increases and there has never been any such thing as a good tax.

The Btu tax, which constitutes the core of the President's revenue raising proposals, will be especially tough for Oklahoma with its heavy reliance on energy production and energy intensive industries. But the Btu tax is preferable to any other proposed tax—it is the best of a bad lot. A carbon tax, a gasoline tax, an ad valorem tax, and an oil import fee all have significant problems that make them worse for industry and our national energy policy. There is simply no other attractive alternative that raises the revenues needed for meaningful deficit reduction.

In addition, the impact of the Btu tax on the families in my district will be relatively modest. The Congressional Budget Office estimates that a family earning $40,000 annually will pay a dollar a month for the Btu tax in 1994, $7 a month in 1995 and $10 dollars a month when the tax is fully phased in by 1996. The impact of the Btu tax on families earning less than $25,000 a year will be more than offset by the proposed expansion of the earned income tax credit. In fact, the accounting firm of Arthur Anderson has found that taxes will actually decrease for a family of three earning less than $25,000.

The taxes in the President's plan are only acceptable, and only worth the pain they will cause for my constituents and our Nation, if they are matched by spending cuts that will double the impact of this plan on the deficit cancer. The President's plan does this. The plan before us today provides for $246 billion in spending cuts. These cuts are largely achieved by freezing discretionary spending at current levels from now until 1998. The plan also contains significant spending cuts in the major entitlement programs such as Medicare, Medicaid, and agriculture, plus reductions in costs for Federal personnel. The $246 billion in spending cuts represents real, substantial spending reductions that will take direct aim at curing our stifling deficit malady.

This bill also provides for budget enforcement mechanisms to ensure that revenue increases and spending cuts are devoted to deficit reduction. The entitlement review process, the trust fund, and the pay-as-you-go rule will help strengthen those in Congress who may otherwise lack the discipline to cut the deficit during the coming years.

We in the House, especially Democrats, were also elected to attack the deficit cancer. This plan gives us that chance. Today we have the opportunity to fulfill the promises we made last November. This plan isn't perfect. But it's honest, balanced, real deficit reduction that deserves enactment.

There are always a thousand reasons to say no. The Continental Congress could have postponed consideration of the Declaration of Independence to explore alternatives. Lincoln could have returned the historic envelope for further staff work and not delivered a speech at Gettysburg. Churchill could have delayed the sailing of the rescue fleet to the British Army trapped at Dunkirk until he was quite sure he had the optimal mixture of boats. Wellington at Waterloo could have delayed attacking Napoleon until all the options had been thoroughly reviewed.

In each case the consequences of inaction in a vain attempt to clutch at something even better would have been disaster. This is also such an occasion. We are about to tell the world whether we can grasp our economic destiny or we let the hopes for our future slip between our fingers.

As Shakespeare said, "there is a tide in the affairs of men which taken at the flood leads on to fortune; omitted, all the voyage of their life is bound in shallows and in miseries * * *"

This is such a crossroads. I urge a vote for this bold initiative, and let us begin to cure the cancer.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very distinguished chairman of the Republican conference, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman from New York for yielding this time to me.

Mr. Speaker, in order to put this bill in perspective, we must see its real impact on the real lives of the real people in our real home districts.

For example, despite all the allegations of job creation for this process that the President has introduced, the Tax Foundation has concluded that the energy tax alone will kill 734 jobs in the district of the gentleman from Oklahoma [Mr. SYNAR], who just spoke. In my district in Texas, if this is passed, it will kill 1,463 jobs.

□ 1430

We cannot afford to lose those jobs. This package was put together by the Democrats without inclusion or participation by the Republicans.

We will have many, many Members of Congress who will go home and say to their districts, "I would like to have had a separate vote on the energy tax or the Social Security tax increase or any number of other things, but the rules would not allow it."

Let us be clear about this today. If you vote "yes" on the moving of the previous question and "yes" on this rule, you vote for a rule that does not allow a separate vote on the energy tax.

The American people cannot run away from that tax if it is imposed on them, and the Members of Congress cannot run away from the vote that makes that tax an essential part of the only vote you get.

This fact is recognized by such public interest groups as the Americans for Tax Reform, the National Federation of Independent Business, National Taxpayers Union, Citizens Against Government Waste, National Association of Wholesale Groceries, the National Association of Manufacturers, and they will grade this vote as a vote to keep the tax package intact and not allow a separate vote on egregious, harmful, job-destroying taxes. You better understand that.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, in the 1 minute that I have, I want to focus on the effect the Btu tax will have on agriculture.

Based on the information I have from Kansas State University, the Btu tax, when fully implemented, would cost the average family farm in eastern Kansas about $520 a year. That is just part of the story.

The other side of the story has not been focused on, and that is the increase in the ability of farmers to expense depreciable assets. If they only take advantage of $5,000 of the additional expensing available, it will more than offset the negative effect of the Btu tax.

Specifically, it will save them $132 on their income taxes if you assume the lowest tax rate of 15 percent.

It will also save them $750 on the self-employment tax that they are not going to pay on the $5,000 of additional depreciable items that they will be able to expense; $132 plus $750 equals $882.

This bill also contains the extension of the 25-percent deduction for health care. That is worth $112 to them.

Add it up, $994, and if you want to go on, if they are making $20,000 a year, if they have two children at home, they will save $1,025 on the earned income tax credit.

So, Mr. Speaker, I urge my friends who are concerned about how this tax bill will affect agriculture to take the whole package into consideration. The Btu tax is not good for agriculture, but other provisions in this bill are good for agriculture.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very fine gentleman from Sanibel, FL, Mr. GOSS, a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, according to the Tax Foundation, the energy tax will kill 911 jobs in the district of the Member who just spoke. In my district we will lose 907 jobs that we cannot afford to lose.

The American people are all too familiar with the dangerous mischief that happens when deals are made late at night, behind closed doors in this House. Tragedy has struck again. The President promises the biggest deficit reduction in history. The reality is that this will be the biggest letdown in history. The certainty is that taxes are going up—that is one thing you can believe. And those taxes will bite hard on the elderly and middle class, not just the rich, 10 million seniors—many on fixed incomes—and every family will feel this bite.

More dismaying, this tax is retroactive—the Democrats have secretly been running the meter since December 1992 and now they are sending us the bill. Do not forget that the $100 billion health plan is on the way and the White House tells us it is to be paid for with still more other new taxes.

Why do I not believe all the promises made by the President and the Democrat leadership about the supposed good news in this bill? For starters, I am skeptical because, with one exception, the Democrat leaders would not allow a vote on any amendments to replace taxes with spending cuts. They would not allow proposals to cut waste despite well-thought-out ideas from both sides of the aisle. Not a promising way to debate what the Democrats are labeling the most important vote to date in this Congress. I am skeptical because when the spin doctors' spin spins down, what is left is the stark harsh reality that there is no plan to balance the budget.

I am skeptical because, after 5 years of sacrifice, the national debt under this plan will be 25 percent higher—another trillion dollars we just do not have. I am skeptical because this plan breaks the faith with every American who has ever paid into Social Security by redirecting those funds to non-Social Security programs. And I am skeptical because all the taxes come first under this plan, and all the spending cuts are promised for later, much later.

The vote on this rule is a vote on whether to raise taxes on all Americans or whether to cut spending first. It is not a partisan question.

The Rules Committee heard hours of testimony from Democrats about the dangers of President Clinton's taxes; 27 amendments went down in flames in the Rules Committee about 4 o'clock this morning because the Democrat leaders know the new taxes can not withstand open scrutiny. Yes, I and many Americans are skeptical about the promises, outraged about the gagging process in the Rules Committee, and deeply anxious about the results.

Mr. Speaker, we have got to defeat this rule. We have got to go back and do better. Americans deserve better. Vote "no" on the rule.

Americans are making themselves heard. One Washington State couple said it best:

> When a few elected Representatives, sitting as a committee, can completely control what action will be allowed on the floor of the full House of Representatives . . . certainly the vast majority of the citizens of this country have absolutely no representation in the proceedings of the Federal Government. This is unbelievable and must be stopped. It approaches dictatorship.

Mr. Speaker, these are your constituents. Vote "no" on this rule because Americans want to cut waste, not raise taxes.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, I note a number of Members have been seeking to ask Members to yield and, of course, everyone knows that we are hard pressed for time. We have very little time. Even our speakers have 1 minute each.

Would it be in order to ask unanimous consent to extend this 1-hour debate for an additional half hour? If so, we on this side will be more than happy to yield to any speaker who would request it of us.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from South Carolina has not yielded to anyone for that purpose.

Mr. SOLOMON. Then, Mr. Speaker, I would just say to the gentleman from South Carolina, if he wishes to propound that unanimous-consent request, we would be glad to yield to the gentleman from Kansas [Mr. SLATTERY], a respected Member, or anyone else, if we could expect reciprocal treatment from the other side.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my good friend for yielding this time to me.

Mr. Speaker, I rise today in support of the rule. We have the opportunity to put our economic house in order. Today, we have an opportunity to add greater fairness to our tax system. With this new administration and thi-

Congress, we have an opportunity to begin anew.

If we fail to pass this legislation, we will send the message to the American people that we cannot govern. The American people will surely lose faith in us all.

We must give this President a chance. We must give his economic plan an opportunity to work. During the past 12 years, we have had to live with economic policies that have steered us in the wrong direction.

The Ways and Means Committee, under the leadership of a great chairman, has put together a real proposal—not gimmicks. It is a very real bill and it is the essence of President Clinton's plan.

This plan is not a cure-all, but it will be a significant step down the long and difficult road of economic reform. This plan truly puts us on the right track of deficit reduction.

Mr. Speaker, I am sick and tired of the naysayers and Nervous Nellies who are saying there are not enough cuts. This proposal is fair. No one has told us that it would be easy. We must pass the plan now because there is no better opportunity and no better plan.

We must keep in mind that our economic problems did not happen overnight. The economic problems will not be solved with one vote nor will they be solved with a wave of a magic wand. We must make it clear that when we cast our vote, there will be no free lunch. The time has come for those who can most afford it to pay their fair share.

We are all in this together. We must act now because time is not on our side. The clock is ticking and the people are watching.

What we do today is not just good for this generation of Americans. It will be good for unborn generations. It redefines our priorities because we will shift emphasis to investment in basic human needs and deficit reduction.

If we do not pass this plan, we will not be able to do much to create jobs or provide comprehensive health care for all of our people.

We must build together a new economic order. By ratifying the budget reconciliation plan, we will build a more solid foundation for the economy.

In supporting this plan, we will put gridlock behind us. We will help make ours a better and more humane Nation. And we will create a greater sense of community.

It was 25-years ago when Senator Robert F. Kennedy said, "Some men see things as they are and say why. I dream of things that never were and say why not."

So today, Mr. Speaker, I urge my colleagues to dream dreams—to have a vision for a different America—for a better America—for a new America.

□ 1440

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, yesterday myself, Mr. KLUG, and Mr. GREENWOOD went before the Rules Committee to offer an amendment that gives the President's child immunization plan a needed shot in the arm and saves taxpayers a billion dollars.

Guess what? President Clinton's immunization proposal in the majority's reconciliation bill creates a new entitlement program. I have only been here one term, but I thought the idea of a reconciliation bill was to control spending, not explode spending. It is inappropriate and irresponsible.

But that is not the half of it. The problem is the President and the majority's immunization plan does nothing to see that kids get vaccines. Sure, it will buy vaccines and put them on the shelves, but what about seeing to it that parents get their children the shots they need to protect them from life threatening diseases—132 kids died from measles alone over a 3-year period.

But the reason these kids don't get their immunizations is not because there aren't enough vaccines; 5,000 public health clinics across America offer free immunizations to any, and let me emphasize this, any kid that walks through their front door.

The problem is parental responsibility. My proposed amendment is a comprehensive plan that promotes parental responsibility by motivating parents with discretionary State government incentives, improvements in the delivery system, and making sure kids who need shots get them.

But the Democrat majority would not let us offer this amendment on the floor today. Even though the studies show it works; the Department of Health and Human Services likes it; and, President Clinton said in endorsing this approach, "I thought that was a good idea."

Mr. Speaker, without this amendment taxpayers will be having more of their hard earned money spent on an entitlement program that will not work.

But even sadder yet is that kids across America will suffer because this House has not taken a stand to protect them.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished ranking member of the Committee on Government Operations, the gentleman from the Commonwealth of Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, at the outset let me just note that according to the Tax Foundation, the energy tax will kill 2,218 jobs in the district of the Member who just spoke. In my district will lose 934 jobs that we cannot afford to lose.

Mr. Speaker, I have a great recommendation for the Joint Committee on the Reorganization of Congress—abolish committees. Of course, Mr. Speaker, I am being facetious, but this rule and the tax increase bill pending before the House today shows why my recommendation is not that ridiculous.

The rule pending before the House self-executes the recommendations of seven House committees. In the case of the budget process reforms, none—I repeat—none of the recommendations were ever debated in the committee of jurisdiction, the Government Operations Committee. The committee held only a brief hearing, and let me mention that OMB Director Panetta canceled his appearance at this hearing just hours before it began. The bill was withdrawn by the chairman before it could be marked up by Members elected by the American people. Instead, unelected Democratic committee staff simply sent legislative language directly to the Rules Committee.

Despite the nearly one dozen amendments prepared by minority members, no opportunity was given to members from either side of the aisle to amend these budget reform recommendations. Ironically, in the letter transmitting the budget process recommendations to the Rules Committee, the chairman urged that no other budget process amendments be made in order because they would not have proceeded through proper committee consideration. Had that principle been applied to this bill, perhaps we would be considering a meaningful entitlement cap, discretionary spending constraints which would result in a smaller deficit, and a deficit reduction trust fund with real teeth.

I have always argued that when the appropriate committee of jurisdiction is not given the opportunity to amend legislation heading to the full House, it is critical that the Rules Committee provide as open an opportunity as possible to amend the bill once it reaches the floor. Unfortunately, in the world's most democratic body, neither the majority nor the minority will have the opportunity to fully debate and amend this far-reaching legislation either in a committee or on the House floor.

Had we had the opportunity in committee, we would have offered meaningful amendments which would, first, have eliminated baseline budgeting, second, strengthened the definition of the term "emergency" to ensure that supplemental spending bills cannot be considered every time the President or Congress needs to pay off some special interest group, third replace the phony trust fund which Alice Rivlin described as a "display device" with a meaningful fund which would have actually reduced the deficit, and fourth, imposed strong spending caps which would have limited spending to a percentage of the gross domestic product. Our list goes on and on.

Mr. Speaker, reject this rule and send the bill back to the committee of jurisdiction where it belongs.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise today in support of this rule and the President's reconciliation package.

I would say to my colleagues that today is the day for us to stand up and be counted.

In last year's election, we all had to apply for our jobs. Those of us who returned, came with a clear mandate. Make the tough choices. Cast tough votes. Make change. Do something. I remind my colleagues about one of our former colleagues, Jim Florio. Jim, after being elected Governor of New Jersey, had to make some tough decisions to turn his State around. Maybe he was not always as diplomatic as he should have been. But he was a leader. He made change in New Jersey.

This month Jim Florio received the Profile in Courage Award from the John F. Kennedy Library. Bill Clinton is also taking those same courageous positions.

The question today is: How many profiles in courage sit in the well of this House? How many of us will stand up and be counted? Show courage. Vote for the budget reconciliation package.

Mr. SOLOMON. Mr. Speaker, I regret that I only have 2 minutes to yield to the gentleman from California [Mr. THOMAS], one of the very distinguished Members of this body.

Mr. THOMAS of California. Mr. Speaker, I do thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me, and the gentleman who just spoke, the gentleman from Pennsylvania [Mr. FOGLIETTA] loses 1,000 jobs in his district with the decision that he has made.

I want to speak to my conservative Democratic colleagues who have been told and promised a number of things, told to just go ahead and vote for the bill. The old "trust me". I want to know if they know a term we thought had been put to rest has been resurrected in this bill. It is called bracket creep.

Mr. Speaker, the red line my colleagues see in front of them is what happens to the 36-percent bracket. It starts January 1, 1993, but all of 1994, and all of 1995 the dollar amount is subject to inflation. I say to my colleagues, "That is stealing from the American people just as if you used a mask and a gun."

Now why, Mr. Speaker, do my colleagues not know that this is in the bill? It is very simple. The President's green book on page 34 said, "As under current law, the bracket will be indexed."

The Joint Committee on Taxation analysis of March 8 said, if my colleagues will notice, "The individual income tax brackets are indexed for inflation."

The Committee on Ways and Means' markup sheet said, "They are indexed," and I asked the chairman, "Since we had had this happen to us in the past, was there anything not written down that's going to happen in this bill?" The chairman told me no.

I have to tell my colleagues, "When they promise you something won't happen, and it does somebody would call that lying. Others would call it business as usual. I said that it's like stealing from the American people as though you used a mask and a gun. Others would say, "No, bracket creep was present when Carter was President, it made money."

Bracket creep has returned with President Clinton. Around here a mask is called a Democrat, and a gun is called majority rule. Some would say it's still stealing.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, the gentleman who preceded me, the gentleman from California [Mr. THOMAS], has just delivered an eloquent statement in behalf of all those who make $140,000 and more, and I say to my colleague, before you quote the thousandsome jobs that an obscure tax foundation predicts West Virginia will lose, let me just say what the policies of the last 12 years from this side of the aisle, my opposition, has produced: The no hands, no guts, no policy and no jobs of the last 12 years. The real figure is 40,000 lost manufacturing jobs in West Virginia, 30,000 lost coal mining jobs, thousands in the natural gas industry. Don't talk to me about predictions. Tell me what you have done.

The fact is that for middle-income working Americans in West Virginia today the income tax rate increases do not apply to middle Americans. Indeed they apply to those married couples over $140,000 a year. The average American household will pay less than $20 per month when this is fully implemented over a several-year period, about the price of a cup of coffee. I think they are will to pay that for a sound fiscal economy with the deficit reduction and with all the other measures in here.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, the Treasury Department has sent to a select group of Members this letter from Michael Levy, Assistant Secretary that says the Clinton budget package will be good for farmers, ranchers, and agriculture.

Now, as the ranking Republican on the Agriculture Committee, I did not receive a letter but I sure got the message. And the message was from a group of farmers who brought the 12-page summary from Treasury to me, said, "Can you believe this," and asked to have the record set straight.

Mr. Speaker, this letter is a hoax. It is full of distortions and deception. It ignores the weight of the permanent tax increases of farmers and softens the impact of the Btu and inland waterways fuels taxes by focusing on the phase in period for the taxes.

The farm-type examples—one in Kansas—one in Wisconsin and one in the upper Midwest—ignore irrigated acres and cotton and rice farms. Worse, with the selected examples, this document underestimated the impact of the Btu tax by 300 to 400 percent and ignored the price reduction impact for commodities that use the inland waterways.

Even the benefits are not benefits. The administration tries to claim the retention of the 25 percent deductability for farmer paid health insurance premiums. That is counting what is already on the books and everyone familiar with health care knows that deductability should be 100 percent.

They count as a benefit the expanded earned income tax credit, totally ignoring off-farm income and the lack of minor children on many farms.

But, my favorite is the attempt of Treasury to claim credit for the decline in interest rates since November as a benefit of the Clinton plan for farmers. Not one single piece of budget legislation has gone to this President for signature and the administration's own budget projections do not assume that this plan will result in reduced interest rates.

How on Earth the biggest tax hike in history, more spending and a trillion dollars of increased debt over 5 years will result in falling interest rates, I don't know.

This summary claims farm income will increase from $150 to $800 under the Clinton plan. Let us set the record straight. An analysis derived from the Food and Agriculture Policy Research Institute and from a dairy farm analysis prepared National Milk Producers Federation shows the example farms in Kansas, Wisconsin, and the upper Midwest will have farm income cut $750 to $2,000.

This document is not accurate. Up is not down, east is not west, and farmers will not be able to reconcile the Clinton administration's reconciliation.

DEPARTMENT OF THE TREASURY,
Washington, May 26, 1993.

Hon. JACK KINGSTON,
U.S. House of Representatives,
Washington, DC.

DEAR MR. KINGSTON: Enclosed is a Department of the Treasury analysis documenting that the Administration's program will improve the economic status of farm families.

Several studies have been widely circulated recently which explore the impact of Administration proposals on families in particular. They have examined the proposals in isolation rather than comprehensively and they do not necessarily reflect the provisions modified during the Ways and Means Committee markup.

The Treasury analysis adopts the same starting point as the study of a farm family in the upper mid-west, but the shortcomings are remedied in the Treasury analysis. It evaluates the full range of Administration proposals in their current form and the results reveal that the combined economic gain from investment expensing, lower interest rates, the Earned Income Tax Credit and health care changes considerably exceed the taxes. The typical farm family in the analysis will enjoy a $144 net gain from the Administration's proposals.

If you have any questions, please call me or George Tyler on my staff at 622-1930.

Sincerely,

MICHAEL LEVY,
Assistant Secretary (Legislative Affairs).

ECONOMIC IMPACT OF THE ADMINISTRATION'S PLAN ON AGRICULTURE

[Example of a Kansas Farmer]

This example illustrates the economic impact of the President's economic plan on a north-eastern Kansas farm family. The example is that of a family with income of $18,700. They have $155,000 of debt, and net worth of $275,000 (close to the regional average). The farm consists of 650 acres, producing five crops: 115 acres of wheat, 150 acres of corn, 95 acres of sorghum, 200 acres of soybeans, and 90 acres of alfalfa hay.

Over the 1994–1997 period, the family income will increase on average by $1,745 as a result of lower interest rates, the benefits of the expanded earned income tax credit (EITC), more generous investment incentives, and extension of the health insurance deduction for self-employed workers. The family will lose $953 on average from reductions in farm program benefits and the proposed Btu energy tax. The cost of the increase in the inland waterways fuel tax on the Kansas farm is estimated to be small, but difficult to quantify with precision. As described in the following pages, the proposed programs phase in over time. The benefits of the EITC shown take into account that not all farm families will qualify for the EITC, and that the benefits depend upon the number of children in the family. It is anticipated that benefits at least as generous as the proposed extension of the deduction for self-employed health insurance payments will be provided over the period. For the facts assumed in the example, the net result will be an average increase in the farm family's income of $792 (a gain of 4.2 percent) under the Administration's economic plan, as shown below.

Economic impact

Average 1994–97 benefits:	
Equipment expensing (present value)	$132
Reduced interest rates	1,318
Self-employed health insurance deduction	112
Expanded EITC	183
Total benefits	1,745
Average 1994–97 costs:	
Btu energy tax	235
Cuts in farm programs	718
Total costs	953

COSTS AND BENEFITS OF THE ADMINISTRATION'S PLAN ON FARMING

The Administration's economic plan seeks to accomplish the combined national goals of reducing the federal budget deficit, increasing investment, and restoring long term economic growth. Increased growth helps people and businesses by increasing our standard of living.

The plan requires a shared contribution from all Americans to achieve its goals, but on balance, all Americans, including farmers, will benefit. They will receive new incentives to invest in more productive equipment. Lower interest rates, resulting from deficit reduction, will lighten existing debt burdens and will spur rural economic growth. The nation will see a reform proposal designed to control the rising cost of health care. The Administration's plan will also assist low-income earners by expanding the earned income tax credit. This will ensure that all families with two children earning at least the minimum wage will not live in poverty.

Increased expensing

As modified by the House Ways and Means Committee, the plan will encourage Americans to invest in new equipment, commencing in 1993. Specifically, it increases the level of capital investments allowed to be expensed from $10,000 to $25,000. These investments would, in general, otherwise have to be depreciated over 7 years. Farmers as described in the example are anticipated to invest, over the 1994–1997 period, an average of $15,000 each year in new and used equipment and machinery, special structures, motor vehicles, and farm and land improvements. The present value (at an 8 percent discount rate) of the increased reduction in tax liability (at a 15 percent tax rate), attributable to the expensing of the additional $5,000 of allowed investment, is $132.

Reduced interest rates

Financial markets view the Administration's program very favorably, calling it the first true deficit reduction program in twelve years. As a result, market interest rates have declined significantly since the November election. These lower rates should stimulate new investment, and should, over time, allow existing debtors to refinance their high interest rate debt at more favorable levels. Based on Farm Credit System data, which indicate an 85 basis point decline in interest rates from December 1992 to May 1993, this decline is assumed in the example.

Extending small-issue agricultural bonds

Some farmers receive low-cost interest loans from state, county, or local governments. These governments are able to raise lower-cost funds through small-issue agricultural bonds, since the bondholders' interest is exempted from federal tax. The government requires that at least 95 percent of gross proceeds must be used to purchase agricultural land or equipment, and the size of an issuance cannot exceed $1 million. The Administration's plan proposes to extend the rights of state and local governments to issue these agricultural bonds.

Extension of the health insurance deduction

Farmers need comprehensive affordable health insurance, yet many can no longer afford it. The Administration is addressing this issue in two ways. First, the plan extends the 25 percent deduction for health insurance costs of self-employed workers and their families through at least December 31, 1993. Second, the Administration initiated a task force to examine ways to reform the health care industry. The health care task force seeks to control exploding costs and to expand coverage to ensure all Americans receive some form of coverage.

The example shows the tax savings generated from extending the 25 percent deduction for self-employed health insurance, based on an assumed premium of $3,000 (which is anticipated to be about the average 1994–1997 cost of such family policy) and a 15 percent tax rate.

Expansion of the earned income tax credit (EITC)

The Administration is committed to "making work pay." The President's plan would expand the earned income tax credit to allow a credit of up to 39.7 percent of income for families with two or more children. Depending on a farmer's income level, a family with two children can receive up to $1,373 in additional annual assistance in 1995 and later years (the maximum additional benefit is $687 in 1994). The increased benefit is reduced for families earning more than $11,000 (as is the case in the example), and is fully phased-out for two-children families earning more than $28,000. Increased benefits of up to $224 are available to a family with one child, and up to $306 to taxpayers with no children. The example assumes that 20 percent of farm families will qualify for the extra benefits that are available to a family with two or more children earning $18,700.

Phased-in Btu energy tax

To reduce the budget deficit, encourage greater energy conservation, and stimulate development of less environmentally damaging processes, the Administration proposes to impose an excise tax on fossil fuels, as well as hydro- and nuclear-generated electricity. Petroleum-based fuels would generally be taxed at a higher rate. The Ways and Means Committee, however, exempted motor fuels used on farms from the higher rate. The rates will be phased in at one-third the full rate beginning July 1, 1994, and at two-thirds the full rates beginning July 1, 1995. The full rates will be effective in July 1, 1996.

In the example, the average increased production cost for the farm specified is $176, assuming that 80 percent of the increased cost is borne by the farmer. Farmers are likely to adjust both their crop mix and farming practices, as they have done in the past in response to higher oil prices, and this, together with market price changes, will shift a portion of the cost from the farmer. Adding an additional $59 for the family's average household energy consumption accounts for the $235 cost noted.

Inland waterways fuel tax increase

Farmers will experience a small increase in freight costs for their crops due to the proposed increase in inland waterways fuel taxes (as modified by the Ways and Means Committee) of 5 cents per gallon in 1994, 20 cents per gallon in 1995, 35 cents per gallon in 1996, and 50 cents per gallon in 1997 and later years. These waterways are currently the most heavily subsidized mode of transportation in the United States and the only Army Corps of Engineers program that is still dependent on federal operating funds. The Administration plans to move this system of intercoastal waterways towards self-sufficiency by increasing the tax on diesel fuel for barges. The increased cost is expected to depend upon the amount of grain and oilseeds shipped by barge, and competing rail freight costs are assumed to also increase somewhat. These increased transportation costs are expected to lead to some reduction in the prices that would otherwise be received by the farmer, but increased deficiency payments are assumed to help offset the lower prices. Because the direct effect of the increased waterways tax on the Kansas farm is found to be quite small, it is difficult to quantify with any accuracy the indirect effect of increased rail fares. For this reason, neither the direct nor indirect effect of the increased waterways tax are included in the example.

Farm program cuts

The Administration's economic plan calls for a reduction in some farm programs over the next four years. The overall reductions have been modified by the House Agriculture Committee. The example includes the effects of the estimated reduction in deficiency payments for wheat, corn, and sorghum for the farm specified, taking into account the timing of the deficiency payments for the specific crops over the 1994–1997 period.

ECONOMIC IMPACT OF THE ADMINISTRATION'S PLAN ON AGRICULTURE

[Example of a Washington Farmer]

This example illustrates the economic impact of the President's economic plan on a

Wisconsin farm family. The example is that of a family with income of $21,000. They have $65,000 of debt, and a net worth of $300,000 (close to the regional average). The farm consists of 250 acres, on which they raise 55 head of dairy cows: 110 acres of corn, 80 acres of hay, 20 acres of oats, and 40 acres of pasture.

Over the 1994-1997 period, the family income will increase on average by $936 as a result of lower interest rates, the benefits of the expanded earned income tax credit (EITC), more generous investment incentives, and extension of the health insurance deduction for self-employed workers. The family will lose $503 on average from reductions in farm program benefits and the proposed Btu energy tax. The cost of the increase in the inland waterways fuel tax on the Wisconsin farm is estimated to be small, but difficult to quantify with precision. As described in the following pages, the proposed programs phase in over time. The benefits of the EITC should take into account that not all farm families will qualify for the EITC, and that the benefits depend upon the number of children in the family. It is anticipated that benefits at least as generous as the proposed extension of the deduction for self-employed health insurance payments will be provided over the period. For the facts assumed in the example, the net result will be an average increase in the farm family's income of $443 (a gain of 2.1 percent) under the Administration's economic pan, as shown below.

Economic impact

Average 1994–97 benefits:	
Equipment expensing (present value)	$132
Reduced interest rates	553
Self-employed health insurance deduction	112
Expanded EITC	139
Total benefits	936
Average 1994–97 costs:	
Btu energy tax	286
Cuts in farm programs	217
Total costs	503

COSTS AND BENEFITS OF THE ADMINISTRATION'S PLAN ON FARMING

The Administration's economic plan seeks to accomplish the combined national goals of reducing the federal budget deficit, increasing investment, and restoring long term economic growth. Increased growth helps people and businesses by increasing our standard of living.

The plan requires a shared contribution form all Americans to achieve its goal, but on balance, all Americans, including farmers, will benefit. They will receive new incentives to invest in more productive equipment. Lower interest rates, resulting from deficit reduction, will lighten existing debt burdens and will spur rural economic growth. The nation will see a reform proposal designed to control the rising cost of health care. The Administration's plan will also assist low-income earners by expanding the earned income tax credit. This will ensure that all families with two children earning at least the minimum wage will not live in poverty.

Increased expensing

As modified by the House Ways and Means Committee, the plan will encourage Americans to invest in new equipment, commencing in 1993. Specifically, it increases the level of capital investments allowed to be expended from $10,000 to $25,000. These investments would, in general, otherwise have to be depreciated over 7 years. Farmers as described in the example are anticipated to invest, over the 1994–1997 period, an average of $15,000 each year in new and used equipment and machinery, special structures, motor vehicles, and farm and land improvements. The present value (at an 8 percent discount rate) of the increased reduction in tax liability (at a 15 percent tax), attributable to the expending of the additional $5,000 of allowed investment, is $132.

Reduced interest rates

Financial markets view the Administration's program very favorably, calling it the first true deficit reduction program in twelve years. As a result, market interest rates have declined significantly since the November election. These lower rates should stimulate new investment, and should, over time, allow existing debtors to refinance their high interest rate debt at more favorable levels. Based on Farm Credit System data, which indicates an 85 basis point decline in interest rates from December 1992 to May 1993, this decline is assumed in the example.

Extending small-issue agricultural bonds

Some farmers receive low-cost interest loans from state, county, or local governments. These governments are able to raise lower-cost funds through small-issue agricultural bonds, since the bondholders'-interest is exempted from federal tax. The government requires that at least 95 percent of gross proceeds must be used to purchase agricultural land or equipment, and the size of the issuance cannot exceed $1 million. The Administration's plan proposes to extend the rights of state and local governments to issue these agricultural bonds.

Extension of the health insurance deduction

Farmers need comprehensive affordable health insurance, yet many can no longer afford it. The Administration is addressing this issue in two ways. First, the plan extends the 25 percent deduction for health insurance costs of self-employed workers and their families through at least December 31, 1993. Second, the Administration initiated a task force to examine ways to reform the health care industry. The health care task force seeks to control exploding costs and to expand coverage to ensure all Americans receive some form of coverage.

The example shows the tax savings generated from extending the 25 percent deduction for self-employed health insurance, based on an assumed premium of $3,000 (which is anticipated to be about the average 1994–1997 cost of such family policy) and a 15 percent tax rate.

Expansion of the earned income tax credit (EITC)

The Administration is committed to "making work pay." The President's plan would expand the earned income tax credit to allow a credit of up to 39.7 percent of income for families with two or more children. Depending on a farmer's income level, a family with two children can receive up to $1,373 in additional annual assistance in 1995 and later years (the maximum additional benefit is $687 in 1994). The increased benefit is reduced for families earning more than $11,000 (as is the case in the example), and is fully phased-out for two-children families earning more than $28,000. Increased benefits of up to $224 are available to a family with one child, and up to $306 to taxpayers with no children. The example assumes that 20 percent of farm families will qualify for the extra benefits that are available to a family with two or more children earning $21,000.

Phased-in Btu energy tax

To reduce the budget deficit, encourage greater energy conservation, and stimulate development of less environmentally damaging processes, the Administration proposes to impose an excise tax on fossil fuels, as well as hydro- and nuclear-generated electricity. Petroleum-based fuels would generally be taxed at a higher rate. The Ways and Means Committee, however, exempted motor fuels used on farms from the higher rate. The rates will be phased in at one-third the full rate beginning July 1, 1994, and at two-thirds the full rates beginning July 1, 1995. The full rates will be effective in July 1, 1996.

In the example, the average increased production cost for the farm specified is $277, assuming that 80 percent of the increased cost is borne by the farmer. Farmers are likely to adjust both their crop mix and farming practices, as they have done in the past in response to higher oil prices, and this, together with market price changes, will shift a portion of the cost from the farmer. Adding an additional $59 for the family's average household energy consumption accounts for the $286 cost noted.

Inland waterways fuel tax increase

Farmers will experience a small increase in freight costs for their crops due to the proposed increase in inland waterways fuel taxes (as modified by the Ways and Means Committee) of 5 cents per gallon in 1994, 20 cents per gallon in 1995, 35 cents per gallon in 1996, and 50 cents per gallon in 1997 and later years. These waterways are currently the most heavily subsidized mode of transportation in the United States and the only Army Corps of Engineers program that is still dependent on federal operating funds. The Administration plans to move this system of intercoastal waterways toward self-sufficiency by increasing the tax on diesel fuel for barges. The increased cost is expected to depend upon the amount of grain and oilseeds shipped by barge, and competing rail freight costs are assumed to also increase somewhat. These increased transportation costs are expected to lead to some reduction in the prices that would otherwise be received by the farmer, but increased deficiency payments are assumed to help offset the lower prices. Because the direct effect of the increased waterways tax on the Wisconsin farm is found to be quite small, it is difficult to quantify with any accuracy the indirect effect of increased rail fares. For this reason, neither the direct nor indirect effect of the increased waterways tax are included in the example.

Farm program cuts

The Administration's economic plan calls for a reduction in some farm programs over the next four years. The overall reductions have been modified by the House Agriculture Committee. The example includes the effects of the estimated reduction in deficiency payments for corn and milk production for the farm specified, taking into account the timing of the deficiency payments for the specific commodities over the 1994–1997 period.

ECONOMIC IMPACT OF THE ADMINISTRATION'S PLAN ON AGRICULTURE

[Example of an Upper Mid-Western Farmer]

This example illustrates the economic impact of the President's economic plan on an upper mid-western farm family. The example

is that of a farm family with income of $17,600. They have $107,000 of debt and a net worth of $500,000 (close to the regional average). The farm consists of 1,250 acres, producing four crops: 610 acres of wheat, 180 acres of barley, 50 acres of oats, and 160 acres of sunflowers, with 250 acres fallow.

This farm family will benefit under the President's economic plan, as currently modified by the Congress. Over the 1994–1997 period, the family income will increase on average by $1,345 as a result of lower interest rates, the benefits of the expanded earned income tax credit (EITC), extension of the health insurance deduction of self-employed workers, and more generous investment incentives. The family will lose $1,201 on average from reductions in farm program benefits, the proposed Btu energy tax, and the increase in the inland waterways fuel tax. As described in the following pages, the proposed programs phase in over time, [and it will also take some time for the benefits of the decline in interest rates to be fully realized by the family]. The benefits of the EITC shown take into account that not all farm families will qualify for the EITC, and that the benefits depend upon the number of children in the family. It is anticipated that benefits at least as generous as the proposed extension of the deduction for self-employed health insurance payments will be provided over the period. For the facts assumed in the example, the net result will be an average increase in the farm family's income of $144 (a gain of 0.8 percent) under the Administration's economic plan, as shown below.

Economic impact

Average 1994–97 benefits:	
Equipment expensing (present value)	$132
Reduced interest rates	909
Self-employed health insurance deduction	112
Expanded EITC	192
Total benefits	1,345
Average 1994–97 costs:	
Btu energy tax	203
Increased inland waterways fuel tax	128
Cuts in farm programs	870
Total costs	1,201

COSTS AND BENEFITS OF THE ADMINISTRATION'S PLAN ON FARMING

The Administration's economic plan seeks to accomplish the combined national goals of reducing the federal budget deficit, increasing investment, and restoring long term economic growth. Increased growth helps people and businesses by increasing our standard of living.

The plan requires a shared contribution from all Americans to achieve its goals, but on balance, all Americans, including farmers, will benefit. They will receive new incentives to invest in more productive equipment. Lower interest rates, resulting from deficit reduction, will lighten existing debt burdens and will spur rural economic growth. The nation will see a reform proposal designed to control the rising cost of health care. The Administration's plan will also assist low-income earners by expanding the earned income tax credit. This will ensure that all families with two children earning at least the minimum wage will not live in poverty.

Increased expensing

As modified by the House Ways and Means Committee, the plan will encourage Americans to invest in new equipment, commencing in 1993. Specifically, it increases the level of capital investments allowed to be expensed from $10,000 to $25,000. These investments would, in general, otherwise have to be depreciated over 7 years. Farmers as described in the example are anticipated to invest, over the 1994–1997 period, an average of $15,000 each year in new and used equipment and machinery, special structures, motor vehicles, and farm and land improvements. The present value (at an 8 percent discount rate) of the increased reduction in tax liability (at a 15 percent tax rate), attributable to the expensing of the additional $5,000 of allowed investment, is $132.

Reduced interest rates

Financial markets view the Administration's program very favorably, calling it the first true deficit reduction program in twelve years. As a result, market interest rates have declined significantly since the November election. These lower rates should stimulate new investment, and should, over time, allow existing debtors to refinance their high interest rate debt at more favorable levels. Based on Farm Credit System data, which indicate an 85 basis point decline in interest rates from December 1992 to May 1993, this decline is assumed in the example.

Extending small-issue agricultural bonds

Some farmers receive low-cost interest loans from state, county, or local governments. These governments are able to raise lower-cost funds through small-issue agricultural bonds, since the bondholders' interest is exempted from federal tax. The government requires that at least 95 percent of gross proceeds must be used to purchase agricultural land or equipment, and the size of an issuance cannot exceed $1 million. The Administration's plan proposes to extend the rights of state and local governments to issue these agricultural bonds.

Extension of the health insurance deduction

Farmers need comprehensive affordable health insurance, yet many can no longer afford it. The Administration is addressing this issue in two ways. First, the plan extends the 25 percent deduction for health insurance costs of self-employed workers and their families through at least December 31, 1993. Second, the Administration initiated a task force to examine ways to reform the health care industry. The health care task force seeks to control exploding costs and to expand coverage to ensure all Americans receive some form of coverage.

The example shows the tax savings generated from extending the 25 percent deduction for self-employed health insurance, based on an assumed premium of $3,000 (which is anticipated to be about the average 1994–1997 cost of such family policy) and a 15 percent tax rate.

Expansion of the earned income tax credit (EITC)

The Administration is committed to "making work pay." The President's plan would expand the earned income tax credit to allow a credit of up to 39.7 percent of income for families with two or more children. Depending on a farmer's income level, a family with two children can receive up to $1,373 in additional annual assistance in 1995 and later years (the maximum additional benefit is $687 in 1994). The increased benefit is reduced for families earning more than $11,000 (as is the case in the example), and is fully phased-out for two-children families earning more than $28,000. Increased benefits of up to $224 are available to a family with one child, and up to $306 to taxpayers with no children. The example assumes that 20 percent of farm families will qualify for the extra benefits that are available to a family with two or more children earning $17,600.

Phased-in Btu energy tax

To reduce the budget deficit, encourage greater energy conservation, and stimulate development of less environmentally damaging processes, the Administration proposes to impose an excise tax on fossil fuels, as well as hydro- and nuclear-generated electricity. Petroleum-based fuels would generally be taxed at a higher rate. The Ways and Means Committee, however, exempted diesel fuel and gasoline used on farms from the higher rate. The rates will be phased in at one-third the full rate beginning July 1, 1994, and at two-thirds the full rates beginning July 1, 1995. The full rates will be effective on July 1, 1996.

In the example, the average increased production cost for the farm specified is $144, assuming that 80 percent of the increased cost is borne by the farmer. Farmers are likely to adjust both their crop mix and farming practices, as they have done in the past in response to higher oil prices, and this, together with market price changes, will shift a portion of the cost from the farmer. Adding an additional $59 for the family's average household energy consumption accounts for the $203 cost noted.

Inland waterways fuel tax increase

Farmers will experience a small increase in freight costs for their crops due to the proposed increase in inland waterways fuel taxes (as modified by the Ways and Means Committee) of 5 cents per gallon in 1994, 20 cents per gallon in 1995, 35 cents per gallon in 1996, and 50 cents per gallon in 1997 and later years. These waterways are currently the most heavily subsidized mode of transportation in the United States and the only Army Corp of Engineers program that is still dependent on federal operating funds. The Administration plans to move this system of intercoastal waterways towards self-sufficiency by increasing the tax on diesel fuel for barges. The increased cost is expected to depend upon the amount of grain and oilseeds shipped by barge, and competing rail freight costs are assumed to also increase somewhat. These increased transportation costs are expected to lead to some reduction in the prices that would otherwise be received by the farmer, but increased deficiency payments are assumed to help offset the lower prices. In the example, the average 1994–1997 cost, after taking these effects into account, is estimated to be $128.

Farm program cuts

The Administration's economic plan calls for a reduction in some farm programs over the next four years. The overall reductions have been modified by the House Agriculture Committee. The example includes the effects of the estimated reduction in deficiency payments for wheat and barley for the farm specified, assuming that 45 percent of the full cutback will be felt in 1994, and 90 percent in 1995.

A RESPONSE TO THE TREASURY CLAIMS ON THE FARM IMPACTS OF THE CLINTON RECONCILIATION PACKAGE

On May 26, the Treasury Department sent Members of Congress an "analysis" of the farm impacts of the Clinton Reconciliation package. This "analysis" is so full of deceptions and distortions that it merits a response to correct the record. The Treasury document outlines three "typical" farms: a

grain farm in northeast Kansas, a dairy farm in Wisconsin, and a grain farm in the upper Midwest. They then break down the effects of the Reconciliation package by several categories as additional costs and expected benefits.

BTU ENERGY TAX

The Administration continually seeks to underestimate the negative impact of its BTU tax on farming. Farmers will not be able to pass through the costs of these added production costs. And, to understand the true effect of this new tax it must be calculated on the basis of its permanent effect, not the short-term cost during the brief phase-in, as Treasury attempts to calculate it.

Farm type	Treasury estimate	Real cost to farmers
NE Kansas grain	$235	[1] $850
Wisconsin dairy	286	[2] $650
Upper Midwest grain	203	[3] $600

[1] derived from farm impact analysis prepared by Food and Agriculture Policy Research Institute (FAPRI) plus a conservative $100 for added personal living expenses.
[2] from dairy farm analysis prepared by the National Milk Producers Federation (NMPF) plus a conservative $100 in added personal living expenses.
[3] derived from farm impact analysis prepared by FAPRI plus a conservative $100 for added personal living expenses.

In addition to distorting the analyses of the described farms, the Administration conveniently omits irrigated farms and cotton and rice farms where BTU added costs will be double or even triple the examples used. The BTU tax, even after the adjustments made in the Ways and Means Committee consideration, will be a devastating blow to farmers already suffering from low prices and a weak economy.

INLAND WATERWAYS FUEL TAX

Even after reducing the Clinton-proposed increase by half, the inland waterways tax will be increased by 250 percent, one of the largest percentage increases ever proposed. Since 40 percent of all grain moves on the inland waterways, the impact of this tax increase will reduce prices received by farmers all over the country. Once again, the Treasury analysts attempt to minimize the effect by showing the costs during the phasing period, rather than looking at the true costs of the permanent increase.

Using the analysis prepared by the Food and Agriculture Policy Research Institute and applying it to crops affected by movement on the waterways, the true cost of this tax increase would be $385 annually for the Kansas grain farmer and $638 annually for the Upper Midwest grain farmer. [Since the dairy farmer would use his production on-farm, it is assumed there is no effect on him.] Overall, it is expected that the national return to farmers will drop from one to two cents on each bushel of the billions of bushels produced annually.

SELF-EMPLOYED HEALTH INSURANCE DEDUCTION

The Administration also attempts to list benefits to be derived from the Clinton plan. In one of the most bizarre items listed, the Administration takes credit for "allowing" farmers to keep the inadequate 25 percent tax deduction for health insurance premiums. They completely ignore their refusal to provide some equity for farmers by allowing them the 100 percent deductibility farmers requested. It is ludicrous to count as a "benefit" something that farmers already have.

EXPANDED EITC

In another interesting move, the Administration has chosen to analyze farms at an income level that would be eligible for the proposed increase in the Earned Income Tax Credit. This assumes no off-farm income which almost all farms of this size would have. They only make passing reference to the fact that the EITC is based largely on families with minor children. This ignores the fact that the average farmer is now over 50 years old and does not have children in residence to give the family eligibility. At best, only a handful of farmers would have access to this "benefit", unless the Administration intends to drive farmers' income so low that all of them will be eligible even without minor children.

REDUCED INTEREST RATES

Most deceptive of all is the claim of reduced interest rates. The Administration's own budget assumptions of only three months ago clearly indicated no assumed interest rate reduction from the President's package. Now, desperate for perceived "benefits", they have decided to claim credit for the slight decline in interest rates that has occurred since November before any of the Clinton plans are in place. Rather than assuming interest rate reductions, they should assume increases in interest rates. It is difficult to imagine how tens of billions in new spending and $250 billion in new taxes can have a positive economic effect, especially when the Clinton Administration's own analysis assumes nearly $1 trillion in new federal debt at the end of this five-year plan. In any case, this self-serving assumption cannot be counted as a "benefit" for farmers of this plan.

ADDING IT ALL UP

When the deceptions and distortions are discarded and the real facts are analyzed, how do farmers fare under the Clinton plan?

Farm type	Treasury estimate	Real effect on farmers.
NE Kansas grain	+$792	−$1821
Wisconsin dairy	+433	−735
Upper Midwest grain	+144	[4] −1976

[4] BTU tax costs + inland waterway tax costs + cuts in farm programs − equipment expensing = real effect on farmers.

Even though these examples are economically disastrous, it must be remembered that even more devastating farm losses will be found in the types of farms that the Administration studiously avoided analyzing (for example, irrigated acreage, cotton and rice farms). Because of the discriminatory Clinton tax proposals and the cuts required in farm programs, there is no doubt that farmers are among the primary victims of the President's tax and spend strategy. Despite the Treasury Department's feeble attempt to cover up the facts, farmers can never be reconciled to the Clinton Reconciliation package.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maine [Ms. SNOWE], a classmate of mine who came here in 1978 and who is a real effective member on the Committee on Foreign Affairs.

Ms. SNOWE. Mr. Speaker, I oppose this restrictive rule. The bill before us is 1,500 pages long, and as unbelievable as it may seem, the rule does not allow us to debate and amend its most important components.

The minority leader, Mr. MICHEL, from Illinois, and I attempted to offer an amendment which would replace the President's Btu tax with spending cuts. The spending cuts we proposed were all fully justifiable and would not have a large impact on the delivery of services to those who truly need them. Because it contained spending cuts, and eliminated President Clinton's proposed spending increases, our amendment did not increase the deficit.

The decision to report out a closed rule is not about the merits of my amendment. Rather, it is about fairness and democracy. Throughout this session, the majority party has relied on closed rules to avoid tough votes. This practice is wrong and it should stop.

It is not the majority's prerogative to stifle debate or to isolate the legislative process from public view. Nor is it the majority's prerogative to evade tough votes by manipulating the rules under which this body operates. The decision to allow amendments should be limited to a single question: is my amendment sufficiently substantive and important that it deserves to be debated before the American people in the full House? On that there can be no question.

Long ago Chief Justice John Marshall stated that the power to tax is the power to destroy. The energy tax is a major component of the President's economic package. It accounts for almost $72 billion, or over 25 percent, of the $275 billion in new taxes raised by this legislation. Yet this legislation was debated in closed session in the Committee on Ways and Means. The public was totally excluded from this process. Since my amendment was not made in order, the public will be denied any chance to see how its representatives stand on this important component of the bill.

I have heard much talk to the effect that the minority's sole purpose is to stalemate the President and deny him the mandate his supporters claim from the election. This rationale has been used to justify excluding us, and our constituents, from participation in the formation of policy. This rationale misses the point.

We have serious and legitimate policy differences with the approach of this bill. It is disturbing that, at a time when every other area of the world is moving toward the free market, using our country's history as an example, this document moves us toward more dependence on government. But our policy differences do not void our right to challenge the ground on which the majority supports the components of this bill. We should be allowed to try and improve it. And the American people have the right to hear the rationale for the new taxes that the Democrats are demanding of them.

In this case, we have asked for two amendments, one to repeal the energy tax and the other to repeal the Social Security tax. Each amendment addresses a major component of the President's legislation and fully com-

plies with the rules of the House. I cannot believe that the majority would tell the American people that these issues are not worth 2 hours of debate, 1 on each amendment.

There is no question that my amendment is a legitimate one. It offers sufficient offsets to pay for the revenues lost by striking out the President's energy tax. Roughly half of these savings are achieved by eliminating increases in spending contained elsewhere in the bill. My amendment does not increase the deficit. It merely substitutes spending cuts for some of the tax increases recommended by the President. Nor is the issue raised by my amendment a minor one. Unless the full House is to cede all of its power to committees comprising only a portion of its membership, it must be willing to debate amendments to the major components of the legislation reported out by these committees.

The energy tax will affect every single household and business in this country. Overnight, it will make some sectors of the economy instant winners while other sectors face severe structural transitions. There are serious questions about whether the tax is worth the cost of these impacts and whether a better means of reducing the deficit is available. I find it disturbing that this body could make such an important decision without publicly debating and voting on the issue in either the committee or the full House.

I understand many members of the Democratic majority will differ with me over the relative merits of tax increases and spending cuts. It does not bother me that those who disagree with me will vote against my amendment. But it does bother me that my amendment was not even made in order because the House leadership does not want to embarrass its members. I seriously question the wisdom of any law whose supporters are embarrassed to have a specific vote on its merits.

I hope that in the future, the leadership will give serious consideration to increasing the openness of this institution. Our Government is built on the tenet that the best policy is arrived at through the clash of different views in open debate. Our founders believed that any attempt to close debate or constrain competition between philosophies would produce worse, not better, public laws. The House Rules Committee, with its ability to carefully structure debate on the floor, should have acted in accordance with this tenet.

□ 1450

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON], the president of the freshman class.

Mrs. CLAYTON. Mr. Speaker, I rise to support the rule. I rise to support the rule because the plan before us, the reconciliation plan, is the President's package which speaks first to the accountability of the budget. It indeed does address the Federal deficit. It indeed does address investment in people.

This package, whether we like it or not, does reduce $250 billion in spending across the board. There are those who would say it is only about raising taxes. It is $250 billion that will affect programs in my area, affect programs that affect the people that I know need them very much. It means all the people will suffer, but it means all the people will share in this.

Mr. Speaker, it therefore not only is raising taxes, but it will affect farming, yes; it will affect Medicaid and Medicare, yes; it will affect the poor, yes. But it also means that it will give opportunity to address the fiscal condition of our country.

Mr. Speaker, it also will provide for investment. Those words mean taxes. They mean revenues must be raised. Those revenues will be addressed to deficit spending. Those revenue increases are fair. Those revenue increases indeed do affect the wealthy first.

Mr. Speaker, I support this plan. I urge that we support the rule which allows this plan to move forward.

Before my opponents on the other side tell me how many jobs this will affect, let me tell you that people have been employed for many months and years due to the failed procedures already at hand.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the rule and against the inflationary Btu tax which will increase debt service costs and reduce deficit reduction.

Mr. Speaker, the President spent a great deal of his campaign discussing the way in which he felt others' pain. He must be a glutton for punishment because the pain his $300 billion tax hike will create is as real as his promises of deficit reduction are false.

The President's plan to raise the taxable portion of Social Security will increase by 3 years the payback time for seniors in the 31 percent tax bracket. The average retiree will die before recovering their investment under the President's proposal. The President seeks to break our contract with elderly Americans by diverting revenue out of Social Security into the general revenue fund.

The energy tax is regressive and inflationary, it hits poor and middle class Americans the hardest. The President's Btu tax focuses like a laser beam on employee-intensive industries and is expected to eliminate up to 600,000 jobs by 1998. A typical family of four will pay $500 a year under the proposal. The impact of the energy tax will be felt most by the very middle-class families candidate Clinton promised a significant reduction in their income tax rate.

The new Democrat is recycled old Democrat and that's why the administration's approval ratings are plummeting. The President's budget proposal flies in the face of the American people's demand that spending be cut before taxes are increased. The discomfort Democrats are experiencing is understandable. The White House is embattled as it attempts to explain away the promises that brought it to power and its congressional supporters are walking the plank on the President's behalf. In the words of the President, to those inclined to support the largest tax increase in history, "I feel your pain."

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Illinois [Mr. HASTERT], who has led the fight to take the onerous tax off of Social Security benefits.

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to let the distinguished gentlewoman from North Carolina [Mrs. CLAYTON] know, since she asked, that her district will have an additional 799 jobs lost because of the Btu tax. We call the Btu tax the big time unemployment tax. My district will lose 1,039 jobs because of the Btu tax, the big time unemployment tax. It is onerous, it is wrong, but it is moving through this Congress.

There is another tax in this package, a tax on Social Security, a tax that should be called the granny tax, because it will tax every widowed grandmother in this country that earns $25,000 a year.

In fact, if that widowed grandmother has to earn wages to make ends meet and she earns over $10,500, she will have a marginal tax rate of 103.5 percent. Mr. Speaker, that is shameful.

If you also happen to be in my district and you happen to be a farmer or commodity producer, the barge tax in this bill will also add another 20-cents per bushel to the cost of producing crops and marketing those crops.

Mr. Speaker, it is very simple: if you want to make a difference, if you want to take away these taxes, if you want to have amendments made in order, then vote against this rule. Then you can vote against the taxes that are in this bill.

Mr. Speaker, it is time for the people of this House to stand up and be heard.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. FRANK], an official member of the truth squad.

Mr. FRANK of Massachusetts. Mr. Speaker, it does not pay very well.

Mr. Speaker, we have heard a lot about the gag rule. Well, I was reading a book the other day about how things are done, and it talked about how to become a sword swallower. You have to learn how to master your gag reflex and suppress it.

But my colleagues on the other side have gone it one better: they have a gag reflex they can turn on and off. Sometimes they can swallow easily, sometimes they cannot.

I have been here since 1981. We had the Gramm-Latta bill which cut Social Security and other benefits. They said no amendments. They all voted for no amendments. We had the NAFTA fast track. They were for no amendments. We had the 1983 Social Security bill which raised taxes on working people and cut Social Security benefits, and they overwhelmingly voted for no amendments. We had the 1982 Reagan tax increase, which was a very big one, and they voted for no amendments.

They have consistently voted against any amendments on a tax bill, until Bill Clinton became President. And one of his great accomplishments is he has converted the Republican Party to democracy. They were never for it before, but now they are for it.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. MCCRERY], a member of the Committee on Ways and Means and of the Committee on the Budget.

Mr. MCCRERY. Mr. Speaker, according to the Tax Foundation, the energy tax will kill 1,710 jobs in the district of the gentleman from Massachusetts [Mr. FRANK]. In my district it will cost 11,500 jobs, that we cannot afford to lose.

Mr. Speaker, there is a nasty little secret lurking in this bill. Listen.

My colleague from Iowa, Mr. GRANDY, and I appeared yesterday before the Rules Committee to ask that we be allowed to offer one simple, but crucial, amendment. Simple because it would merely make the tax increases in the plan prospective, not retroactive. Crucial because, without our amendment, no one who votes for this program today can honestly claim to have complied with the demand of people all across this Nation to cut spending first. In fact, without our amendment, which, under the terms of this closed rule, cannot be offered, anyone who votes for the President's program today will be voting for exactly the opposite—they will be voting for tax increases first, and a promise of spending cuts later.

Now, I'm sure there are some Americans listening to this debate—maybe even some Members of Congress—who are thinking right now, "What does this guy McCrery mean—retroactive tax increases?" Well, it's a well kept secret, but it's very simple. If this bill we're voting on today becomes law, the increase in personal income taxes, corporate taxes, and inheritance taxes will take effect as of January 1, 1993. That's right, this bill will increase taxes on income that's already earned. It will mean that individuals, and small businesses taxed as individuals, have not been withholding enough to pay their tax bill for this year. It means that many taxpayers will be surprised next April when they discover that they owe the Government more money. Now folks, I don't care how you cut it—raising taxes on income already earned is just not fair.

As far as my research has been able to determine, there has only been one other time that taxes have been raised retroactively—during the Vietnam war. And, according to published congressional reports, the reason for such a radical action was to slow down the economy. I submit, Mr. Speaker, that these retroactive tax increases are not only unfair, will not only preclude the possibility of cutting spending first, but will have the effect of slowing job creation and economic growth.

I urge the American people to call their Representatives and, if this stinker passes today, call their Senators to tell them that retroactive tax increases are both unfair and unwise. Put simply—cut spending first.

□ 1500

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would advise the Members that the gentleman from New York [Mr. SOLOMON] has 1 minute remaining, and the gentleman from South Carolina [Mr. DERRICK] has 3 minutes remaining.

The gentleman from South Carolina [Mr. DERRICK] has the right to close.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, today I address my remarks to our side of the aisle. I wish I could to the other side, but it was clear that the other side made up their minds they were not voting with us no matter what was in the package.

I say to my colleagues, we must vote for this package for 3 reasons:

First, for our President. If we do not vote for it, we cut him off at the knees early in his term. We cannot do that, none of us.

Second, for our party. We must show the country that we can govern and govern we can. We must show the country that we are a different Democratic Party that cares about deficit reduction and cares about our future.

Third, for our country, most importantly of all. For 12 years the politicians have misled the people and fed them Pablum and not told them the truth. Today we must look the American people in the eye and say, "For our future, not only 20 years from now but a year from now, that we will vote for this package to set America right, to stop eating our young and to get our country back on track."

We must vote for this package. We have no choice. I urge everybody to vote "yes" on our side of the aisle.

Mr. DERRICK. Mr. Speaker, I reserve the right to close.

Mr. SOLOMON. Mr. Speaker, we have 21 additional speakers but only 1 minute left. Mr. Speaker, I yield the balance of my time to the distinguished member of the Committee on Rules, the gentleman from California [Mr. DREIER].

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 minute.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Glens Falls for yielding time to me.

Mr. Speaker, my dear friend from New York will kill 609 jobs in his district, if he votes for this, according to the Tax Foundation. I will lose 1,319 in my Los Angeles County District. We cannot afford to lose those jobs, neither of us can.

There are many Members who have tried to argue that this is a fait accompli, the deal is done. We have got these alternatives. Baloney. That is not true, Mr. Speaker.

We have a chance right now to repeal the Btu tax, to repeal the Social Security tax and to put into place the true entitlement caps that were proposed in the original Stenholm program.

How do we do that? By voting "no" on the previous question. If my colleagues really want to do those things which their constituents want them to do, join with us, vote "no." Let us bring back a rule that will give us an opportunity to address those issues.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I might point out that in the State of California, this package creates 28,382 new jobs, and in New York, it creates right at 20,000 new jobs.

Let me tell those of my colleagues who have not been here a long time, there is nothing new about this debate. The Republicans voted against their own President's budget in the Senate in 1982. In 1983, they did not bring it up. They voted against it in 1984. They did not bring it up in 1985. They voted against it in 1986. They voted against it in 1987.

They did not bring it up in 1988. They did not bring it up in 1989. They voted against it in 1991, most of them did. So there is nothing new about that.

They do not vote for any budget. They do not even vote for their own budgets. They do not vote for their own President's budgets.

What they are really telling is they do not want to accept the responsibility for governing in the United States of America. That is what this exercise is all about.

We are the majority party, and we have that responsibility. We have a President who has come to us and said, "We are ready to deal with the fiscal problems of this country. We are willing to reduce the budget deficit. we are willing to create jobs. We are willing to move ahead and get the economic affairs of this country back on track." And, thank goodness, we have a Democratic party that is willing to govern,

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willing to vote for budgets, and we have a President who is willing to lead.

I suggest to my colleagues that this is a very fair rule, and I suggest to my colleagues that we must vote yes on the previous question and pass the rule.

Mr. Speaker, I include for the RECORD an estimate of the increases in 1994 in personal income and jobs from the President's program, by State.

These figures suggest this package will create 194,608 new jobs in the United States next year.

ESTIMATES OF INCREASES IN STATE PERSONAL INCOME AND JOBS OF THE PRESIDENT'S PROGRAM IN 1994, BY STATE

[In millions of dollars]

State	Personal income	Jobs (numbers)
United States	$9,925	194,608
Alabama	92	1,804
Alaska	28	347
Arizona	103	2,020
Arkansas	43	551
California	1,447	28,382
Colorado	137	2,690
Connecticut	237	4,652
Delaware	32	632
District of Columbia	38	737
Florida	516	10,121
Georgia	209	4,094
Hawaii	55	1,094
Idaho	22	441
Illinois	544	10,658
Indiana	170	3,335
Iowa	88	1,693
Kansas	89	1,748
Kentucky	85	1,675
Louisiana	85	1,690
Maine	39	766
Maryland	262	5,145
Massachusetts	347	6,798
Michigan	349	6,851
Minnesota	175	3,437
Mississippi	32	619
Missouri	175	3,427
Montana	10	359
Nebraska	52	1,025
Nevada	55	1,075
New Hamshire	57	1,124
New Jersey	546	10,711
New Mexico	28	558
New York	999	19,581
North Carolina	194	3,803
North Dakota	15	285
Ohio	262	7,101
Oklahoma	72	1,407
Oregon	94	1,846
Pennsylvania	483	9,466
Rhode Island	40	788
South Carolina	79	1,554
South Dakota	18	347
Tennessee	134	2,628
Texas	530	10,399
Utah	32	635
Vermont	19	380
Virginia	277	5,426
Washington	207	4,055
West Virginia	30	302
Wisconsin	168	3,294
Wyoming	14	265

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 178, not voting 2, as follows:

[Roll No. 195]

YEAS—252

Abercrombie	Green	Pallone
Ackerman	Gutierrez	Parker
Andrews (ME)	Hall (OH)	Pastor
Andrews (NJ)	Hall (TX)	Payne (NJ)
Andrews (TX)	Hamburg	Payne (VA)
Applegate	Harman	Pelosi
Bacchus (FL)	Hastings	Penny
Baesler	Hayes	Peterson (FL)
Barcia	Hefner	Peterson (MN)
Barlow	Hilliard	Pickett
Barrett (WI)	Hinchey	Pickle
Becerra	Hoagland	Pomeroy
Beilenson	Hochbrueckner	Poshard
Berman	Holden	Price (NC)
Bevill	Hoyer	Rahall
Bilbray	Hughes	Rangel
Bishop	Hutto	Reed
Blackwell	Inslee	Reynolds
Bonior	Jefferson	Richardson
Borski	Johnson (GA)	Roemer
Boucher	Johnson (SD)	Rose
Brewster	Johnson, E. B.	Rostenkowski
Brooks	Johnston	Rowland
Browder	Kanjorski	Roybal-Allard
Brown (FL)	Kaptur	Rush
Brown (OH)	Kennedy	Sabo
Bryant	Kennelly	Sanders
Byrne	Kildee	Sangmeister
Cantwell	Kleczka	Sawyer
Cardin	Klein	Schenk
Carr	Klink	Schroeder
Chapman	Kopetski	Schumer
Clay	Kreidler	Scott
Clayton	LaFalce	Serrano
Clement	Lambert	Sharp
Clyburn	Lancaster	Shepherd
Coleman	Lantos	Sisisky
Collins (IL)	LaRocco	Skaggs
Collins (MI)	Laughlin	Skelton
Condit	Lehman	Slattery
Conyers	Levin	Slaughter
Cooper	Lewis (GA)	Smith (IA)
Coppersmith	Lipinski	Spratt
Costello	Lloyd	Stark
Coyne	Long	Stenholm
Cramer	Lowey	Stokes
Danner	Maloney	Strickland
Darden	Mann	Studds
de la Garza	Manton	Stupak
Deal	Margolies-Mezvinsky	Swett
DeFazio	Markey	Swift
DeLauro	Martinez	Synar
Dellums	Matsui	Tanner
Derrick	Mazzoli	Tauzin
Deutsch	McCloskey	Taylor (MS)
Dicks	McCurdy	Tejeda
Dingell	McDermott	Thompson
Dixon	McHale	Thornton
Dooley	McKinney	Thurman
Durbin	McNulty	Torres
Edwards (CA)	Meehan	Torricelli
Edwards (TX)	Meek	Towns
Engel	Menendez	Traficant
English (AZ)	Mfume	Tucker
English (OK)	Miller (CA)	Unsoeld
Eshoo	Mineta	Valentine
Evans	Minge	Velazquez
Fazio	Mink	Vento
Fields (LA)	Moakley	Visclosky
Filner	Mollohan	Volkmer
Fingerhut	Montgomery	Washington
Flake	Moran	Waters
Foglietta	Murphy	Watt
Ford (MI)	Murtha	Waxman
Ford (TN)	Nadler	Wheat
Frank (MA)	Natcher	Whitten
Frost	Neal (MA)	Williams
Furse	Neal (NC)	Wilson
Gejdenson	Oberstar	Wise
Gephardt	Obey	Woolsey
Geren	Olver	Wyden
Gibbons	Ortiz	Wynn
Glickman	Orton	Yates
Gonzalez	Owens	
Gordon		

NAYS—178

Allard	Goodling	Myers
Archer	Goss	Nussle
Armey	Grams	Oxley
Bachus (AL)	Grandy	Packard
Baker (CA)	Greenwood	Paxon
Baker (LA)	Gunderson	Petri
Ballenger	Hamilton	Pombo
Barrett (NE)	Hancock	Porter
Bartlett	Hansen	Portman
Barton	Hastert	Pryce (OH)
Bateman	Hefley	Quillen
Bentley	Herger	Quinn
Bereuter	Hobson	Ramstad
Bilirakis	Hoekstra	Ravenel
Bliley	Hoke	Regula
Blute	Horn	Ridge
Boehlert	Houghton	Roberts
Boehner	Huffington	Rogers
Bonilla	Hunter	Rohrabacher
Bunning	Hutchinson	Ros-Lehtinen
Burton	Hyde	Roth
Buyer	Inglis	Roukema
Callahan	Inhofe	Royce
Calvert	Istook	Santorum
Camp	Jacobs	Sarpalius
Canady	Johnson (CT)	Saxton
Castle	Johnson, Sam	Schaefer
Clinger	Kasich	Schiff
Coble	Kim	Sensenbrenner
Collins (GA)	King	Shaw
Combest	Kingston	Shays
Cox	Klug	Shuster
Crane	Knollenberg	Skeen
Crapo	Kolbe	Smith (MI)
Cunningham	Kyl	Smith (NJ)
DeLay	Lazio	Smith (OR)
Diaz-Balart	Leach	Smith (TX)
Dickey	Levy	Snowe
Doolittle	Lewis (CA)	Solomon
Dornan	Lewis (FL)	Spence
Dreier	Lightfoot	Stearns
Duncan	Linder	Stump
Dunn	Livingston	Sundquist
Emerson	Machtley	Talent
Everett	Manzullo	Taylor (NC)
Ewing	McCandless	Thomas (CA)
Fawell	McCollum	Thomas (WY)
Fields (TX)	McCrery	Torkildsen
Fish	McDade	Upton
Fowler	McHugh	Vucanovich
Franks (CT)	McInnis	Walker
Franks (NJ)	McKeon	Walsh
Gallegly	McMillan	Weldon
Gallo	Meyers	Wolf
Gekas	Mica	Young (AK)
Gilchrest	Michel	Young (FL)
Gillmor	Miller (FL)	Zeliff
Gilman	Molinari	Zimmer
Gingrich	Moorhead	
Goodlatte	Morella	

NOT VOTING—2

Brown (CA)	Henry

□ 1526

Mr. SMITH of Michigan and Mr. HOKE changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DERRICK. Mr. Speaker, I demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 194, not voting 2 as follows:

[Roll No. 196]

AYES—236

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—194

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—2

Hayes
Henry

□ 1542

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 186 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2264.

□ 1543

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994 with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. SABO] will be recognized for 1 hour, and the gentleman from Ohio [Mr. KASICH] will be recognized for 1 hour.

The Chair recognizes the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, November 1992, a new President was elected, a new House was elected. We were elected for a very fundamental purpose, to get our economy back on track, and we are here today to continue that process.

That process began when we passed the budget resolution, which set spending targets for discretionary spending at levels below those of 1993 for the next 5 years.

We continue that process today with the reconciliation bill which concludes a process of passing in the House the President's economic program, a program of $500 billion of deficit reduction, of reordering priorities in this country and making sure we lay the foundation for getting our economy moving again.

Let me be clear: The package we have today is a $500 billion deficit reduction package over the next 5 years. Over one-half of the cuts come from cuts in spending, half from revenues; 70 percent of the revenues coming from people—those revenues coming primarily from the most affluent in our society; 66 percent from those people making incomes over $200,000 a year, over 70 percent from those making over $100,000 a year.

At the same time as we have significant deficit reduction, this program also deals with the people who are working-poor in this country to make sure that a family working full-time has income above the poverty level.

As we deal with this package and as we come to this conclusion today, there are some who say do this a little differently, do something here a little differently, and, "I might vote 'yes'."

Well, my friends in the House, that is what we call gridlock, endless debate, endless quibbling.

We are faced today with a fundamental alternative that will change the basic course of this country, and this is by far the best package that this Congress can consider.

Let me say to my friends on the Republican side, I do not expect your votes; you are in the minority. Even when you had your own President, you rarely voted for a President's budget.

So, my friends on the Democratic side, it is our responsibility to produce the 218 votes. We need to do it because it is a vote fundamentally for the future of our country. It is a vote for the largest deficit reduction package this Congress has ever seen. It is a vote to end gridlock. It is a vote to do the things the people sent us to do here, to reduce the deficit, cut spending, reorder our priorities for the investment in the future and in human resources for our people.

It is time to get our economy back on track. My fellow Democrats, we have that responsibility today. It is that simple; we simply need to vote "yes."

□ 1550

Mr. KASICH. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this is a very, very sad saga today, starting all the way back when President Clinton came to Capitol Hill and made his State of the Union speech and said, "If you don't like my program, please give me your specifics."

We just listened to the distinguished chairman of the Budget Committee, who the Tax Foundation argues there will be 732 jobs killed in his district. In my district it will be 1,239 jobs that will be lost as a result of the tax and spend program of the administration.

President Clinton came here and he said, "If you don't like my taxes, if you don't like my tax and spend policy, give me your specific recommendations to reduce spending."

And of course, we developed them. We went to the Budget Committee and we said to the Budget Committee, "We want to cut spending first and reduce the job-killing taxes, the job-killing bureaucrats who will create regulation, that will further slow down this economy."

We went to the Budget Committee and we offered a substitute that was more specific than your substitute. We said that we wanted to cut spending first. We offered a full substitute. You rejected it on party line votes.

Then we came through 10 hours' worth of amendments, where we tried to substitute specific spending cuts in exchange for the job-killing tax increases that you have in your bill, and you defeated us hour after hour on a party-line vote. We were the subject of gridlock, and the American people are going to be subject to unemployment because of this tax and spend policy that the President and the majority is inflicting on us today.

Then we go to reconciliation and we are told, "Develop $345 billion in cuts if you want to offset our tax increases."

By the way, their tax and spending cuts, $4 in taxes to every dollar in spending cuts.

Then we go into reconciliation, into the markup yesterday morning and the Rules Committee. We go in with $352 billion in deficit reduction with no tax increases, and you folks have to meet at 2 o'clock in the morning behind closed doors to figure out how to change the rules after we beat you then also.

You see, every time you set a standard, we meet it. Every time you say tax and spend, we have to tax and spend, and we give you specific spending cuts that shrinks the size of government and reforms the bureaucracy in the United States, every time we give you the specifics to meet the goal you set, you change the rules.

And do you want to know why? Because you cannot resist anything but tax and spend.

You put the record on. We are getting tired of it. It is just tax and spend, tax and spend, tax and spend. We want to take the record off. We want to give you these specific cuts, and all you want to do is gridlock the Republicans.

And why do we want to shrink the Government? Why do we want to cut the spending? Why do we want to eliminate the taxes? Because your economic program is a job killer. Your tax increases on the energy in this country will affect people from the automobile to the schoolhouse to the grocery shelves.

Your energy tax is going to put people out of work.

Your Social Security tax is abominable when you promised people a tax cut. You turn around after the election, not even 6 months after the election and you raise their taxes.

Well, do you know what the Republicans want to do? We want to cut spending first. We want to downsize the Government, because we believe the answer lies in the individual in this country with more incentives and less government and less job-killing regulation and none of these taxes that feed the Federal monster.

We should do everything we can today. I hope the people across this country will flood your offices and say, "Go with the Republicans. Cut spending first, Stay out of my wallet. No more bureaucracy. No more regulation. Please don't kill my job. Cut spending first. Support the Republicans. Defeat the President's tax and spend plan."

Mr. SABO. Mr. Chairman, I yield 6 minutes to the gentleman from Texas [Mr. STENHOLM].

As I yield to the gentleman, I want to pay special recognition to him for his leadership in adding a provision which deals with budget review and also recognize two other Members, gentleman from Minnesota [Mr. PENNY] who worked very closely with the gentleman from Texas [Mr. STENHOLM], and the gentleman from South Carolina [Mr. SPRATT], who was absolutely essential in arriving at this agreement.

Mr. STENHOLM. Mr. Chairman, I rise in support of this reconciliation bill. I do so confidently but I did not come to this point lightly. My confidence is based on the addition of historic entitlement spending discipline, combined with an unprecedented freeze in discretionary spending. My hesitation was largely founded on grave concerns about the Btu tax included in the bill. I want to make perfectly clear from the outset that my vote for moving this process forward is predicated on the belief that improvements in the Btu tax will be forthcoming as the bill proceeds to the Senate. I will reserve my ultimate commitment to this legislation until hose improvements appear in the final conference report.

Days after President Clinton was sworn in as President on these Capitol steps, he offered a State of the Union Address in which he outlined an ambitious plan for our country which I wholeheartedly endorsed. One of the promises our President made at that time was a commitment to reducing our enormous Federal deficit. The budget which President Clinton proposed followed up that promise of deficit reduction with a concrete proposal.

The Budget resolution subsequently passed by the Congress established the game plan, calling for $496 billion in deficit reduction over the next 5 years and bringing the deficit below $200 billion by fiscal year 1998. The budget resolution provided for a hard freeze in discretionary spending, meaning that actual discretionary spending in 1998 would be no more than it was in 1993. Be assured that freezing discretionary spending will have a major impact on business-as-usual around here by forcing us to make tough choices and set priorities. One need only compare a hard freeze to the discretionary spending which occurred during the first 5 years of the Reagan Presidency to understand just how different business will be.

Total discretionary spending:
1982–$326.2 billion.
1983–$353.4 billion.
1984–$379.6 billion.
1985–$416.2 billion.
1986–$439.0 billion.

I have stated repeatedly throughout the budget process that any deficit reduction package must be accompanied by enforcement mechanisms to guarantee the promises of our president's and our own budget. This bill meets that test.

In addition to the discretionary caps which enforce the freeze on discretionary spending, this bill will establish entitlement spending targets at the levels provided in the reconciliation bill. If in the future entitlement spending is projected to exceed the cap by more than one-half of 1 percent, Congress and the President will be required to respond to the projected excess. First, the President will be required to submit a package to deal with the excess by proposing spending cuts, tax increases or increasing the targets. The President's direct spending message will be introduced as a concurrent resolution by the chairman of the House Budget Committee. The Budget Committee will be required to include a separate title within the House budget resolution that provides reconciliation directives to the appropriate committees, recommending changes in laws within their jurisdictions to reduce outlays or increase revenues by amounts equal to or greater

than the President's recommendations. If the Budget Committee recommends an increase in the entitlement targets, there must be a separate vote on the raising of the targets. A budget resolution conference report will not be in order unless it deals with the overage in one of the ways I just outlined. A budget resolution that does not deal with the overage will not be in order. If Congress does not pass a budget resolution conference report that deals with the overage, it will not be in order to consider any general appropriation bills, unless a resolution devoted solely to the subject of waiving this requirement is first passed.

These procedures will take entitlement spending off of autopilot and force the President and Congress to take concrete actions dealing with increases in entitlement spending. The underlying premise of this enforcement mechanism is accountability on the part of Congress and the President. Having enacted a package which guarantees deficit reduction, we must stand behind our promise. If entitlement spending exceeds the targets, we must vote to take action in response. If we vote to raise the targets, or vote to avoid action by waiving these procedures, all of us here will be held accountable for those votes. If there are legitimate reasons why we choose not to cut spending or raise taxes to respond to the breech, we should be honest about that, admit we are not holding to our deficit reduction, and have the opportunity to explain why. If we are honest with the public, they will decide, based on good information, whether or not they agree with our decisions.

It is important to realize that even with these caps, there still will be an increase of $260 billion in entitlement programs over the next 5 years. I must say that I would prefer to do far better than that in deficit reduction. Nonetheless, the impact of taking entitlement spending off of its autopilot path for the first time ever is an accomplishment not to be minimized.

Mr. Chairman, I include the following charts:

Fiscal years	Reagan admin.	Reconciliation bill
Base year	308.1–1981	547.9–1993
Year 1	326.2–1982	538.8–1994
Year 2	353.5–1983	541.3–1995
Year 3	379.6–1984	547–1996
Year 4	416.2–1985	547–1997
Year 5	439–1986	548–1998

□ 1600

And we found that that created some real problems for us, so we looked for compromise. Our entire effort in this has been to try and find 218 votes to reduce the deficit.

One can make the commonly heard argument that these entitlement caps would be detrimental to the poor and underprivileged only if one believes that the President and Congress' budget is detrimental to the poor and underprivileged, because these caps enforce our budget. I do not believe that our budget is harmful to the poor and so I reject that argument.

I also reject the argument that this is not real. Eventually, sooner or later, and I know we have bipartisan support on this concept, we unfortunately will not have bipartisan support for the vote today, but I know the concept that we set in place today on the entitlement cap side will lay the groundwork for doing that which we must eventually do if we get the deficit down.

I encourage my colleagues to vote for this bill. It is not perfect. We will hear all of the things that are wrong with it. But remember these charts about what is right with it. A discretionary freeze and caps on entitlements that force us to take entitlements off of autopilot are a significant step forward for deficit reduction.

To those who criticize all of it, Mr. Chairman, I ask them to take a sincere look at the good sides of this and to recognize that there are good, and there are bad, recognize that getting the deficit down, to this Member, far outweighs the negatives associated with the problems of the bill.

I encourage the support of this bill today.

Mr. KASICH. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, it is very easy to get a flat line on discretionary spending when you cut defense by $219 billion and throw 2 million people out of work. That is essentially what happened here under this proposal.

I say to my colleagues, "You're not only going to throw them out of work by raising the energy tax," and for the people that are watching this debate today and are worried about whether they are going to have base closings, I tell them one thing: "You ain't seen nothing yet. Wait until this kicks in."

Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN. Mr. Chairman, according to the Tax Foundation, the energy tax will kill 1,445 jobs in the district of the gentleman from Texas [Mr. STENHOLM] who just spoke, and my district, it is estimated, will lose 1,181 jobs, and I do not think either one of us looks forward to that prospect.

But further, we have an opportunity today to make a choice that can meet the expectations of the American people to balance the budget, stimulate the economy, and hold the line on taxes. Unfortunately, Mr. Chairman, we will not do that because President Clinton's tax-and-spend plan does not cut it, and the right alternative is not on the table. The Committee on Rules ruled that out.

So, Mr. Chairman, we are left with Clinton's proposals, the largest tax and spending increase in history, and the son of Kasich with two times the spending reduction of the Democrat plan and no new taxes. Neither go far enough in reducing spending. If nothing is done today, we will add another $1½ trillion to the debt over 5 years with the annual baseline deficit going from $286 billion in 1994 to $359 billion in 1998.

The President's proposal, Mr. Chairman, will add $273 billion in new taxes, reduce spending by only $152 billion for total deficit reduction to $425 billion, and son of Kasich reduces the deficit with no new taxes over 5 years by $352 billion. The fact is that neither plan will reduce the annual deficit below $225 billion a year, and in fact what we are all only reducing is not the actual amount of spending, but reducing projected increases in spending that we have previously enacted or allowed to happen by doing nothing.

All of this, my colleagues, is before health care reform, which could be expensive. The President is talking about maybe as much as $30 to $150 billion a year. But both plans fail to adequately address health care costs that are out of control. Medicare and Medicaid are increasing at 12.4 percent per year. There is no deficit reduction plan that would be effective that does not hold the increases in entitlement programs to the cost of living plus the population increase.

Mr. Chairman, I made a proposal which was disallowed before the Committee on Rules to do just that. It is labeled H.R. 2172, and, if Congress and the President could stick within the targets set forth therein, that is, limiting entitlement growth to the increase in inflation plus population growth, or otherwise it would have to find the revenues to pay for the excess, the baseline would be frozen. It would also do away with baseline budgeting, our Achilles heel. My plan would bring the deficit down to $150 billion in 1998 and balance it by 2002 without a tax increase.

The gentleman from Texas [Mr. STENHOLM] and the Democrat plan talk about caps, but they do not set the caps any lower than the unacceptable rate that is already in the baseline budget, and that is a 12½-percent increase per year. That is simply not good enough. We cannot accept Medicare and Medicaid increasing at a rate of 12½ percent a year, and, if the Congress will roll up its sleeve, we can address the things that are driving up those costs, which is exactly what the authorizing process should be.

My colleagues, let us recycle this hazardous waste of legislation and come back to the kind of change the American people are prepared to sacrifice for that truly maximizes spending cuts and promises a balanced budget.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the distinguished chairman

of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I thank the distinguished gentleman from Minnesota [Mr. SABO] for yielding this time to me.

Mr. Chairman, I rise first for purposes of a colloquy with my very able friend, chairman of the Committee on Post Office and Civil Service, the distinguished gentleman from Missouri [Mr. CLAY], and I would like to clarify one matter if I could have the attention of my distinguished friend.

Mr. Chairman, various congressional investigations of contracting by Federal agencies, particularly the Environmental Protection Agency and the Department of Energy, have revealed waste and abuse by contractor employees. Many agencies have lost the core staff capability needed to supervise various contractor functions, contractors are performing inherently governmental functions, and contractors are often performing tasks that could be more efficiently performed in-house.

I say to the gentleman from Missouri [Mr. CLAY] in view of these serious problems, I wanted to clarify that the reconciliation provisions reported by the Post Office Committee, section 10004(e), do not require equal percentage cuts in the work force of each executive agency. In other words, I think we should assure the House that these provisions would allow adjustments in the in-house work force of particular agencies to ensure adequate contract auditing and contract administration and to address the overreliance on contractor employees which has caused so many problems in terms of waste, fraud and abuse in these areas.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, I thank the gentleman from Michigan [Mr. DINGELL] for yielding to me, and I say to him that he is correct in his interpretation. The provisions reported by our committee specify limits on the average total number of civilian employees in the executive branch but do not establish agency-by-agency limits.

Mr. DINGELL. Mr. Chairman, I thank my distinguished friend, the gentleman from Missouri [Mr. CLAY]. I am sure my good friend, the gentleman from Minnesota, agrees with those interpretations.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I agree with the interpretation, and I must also note that in contrast to some of the allegations from across the aisle this is another indication of real cuts that are in this budget reconciliation bill.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Minnesota [Mr. SABO].

Mr. Chairman, this is a good bill. It is going to hurt. It is going to cost people who are the beneficiaries of important programs like Medicaid and Medicare. It is going to hurt in a significant way the people who have the least. It is going to call upon those who have the most to begin to move toward picking up their fair share of the burden.

The legislation has many worthwhile provisions. President Clinton is prepared to lead. He is prepared to resolve the biggest single problem that this country has economically, and that is the budget which is out of control. This will begin to reduce Federal expenditures and get us in line where we can now look forward toward a period of economic development and growth uninhibited by the kind of excessive debt that we have seen triggered over the last 12 years of wildly inflated Federal budgets.

The President's program is a good one. The provisions by our committee do a number of things which are important. First, they cut Medicare and Medicaid by $50 billion. Second, they include the Emergency Telecommunications Technology Act which will make available 200 megahertz of spectrum which will see to it that is auctioned off among would-be spectrum users in a way that conforms with a broad public interest.

□ 1610

I would like to talk a little bit about the Btu tax. One of the great blessings of this country is cheap energy. One of the great curses is cheap energy. It is one of the things which contributes constantly to the unpreparedness of this country to meet the problems of another oil shutoff. Europeans who have maintained their oil prices high are able to address oil shutoffs without expecting wild and crazy swings in their economies occasioned by wild price increases triggered by the events which occur, unfortunately, all too often in the Middle East.

Gasoline today is cheaper than bottled water. Energy efficiency, energy economy in these areas, becomes virtually impossible.

While I do not like tax increases, while I do not like increases in the cost of energy, it must be recognized that this is a package in which about one-half is cuts in programs and about one-half is taxes, which will be raised almost entirely on those most able to pay.

This is the proposal which is going to require real courage by the Members. It has real deficit reduction. Real deficit reductions hurt. Real deficit reductions demand courage, and they demand the ability and the willingness to accept risk.

I heard many of my colleagues during the last campaign on both sides of the aisle speak about how it is needed to end gridlock, how it is needed for this country to set about making the country go. We will have a chance to see how much those Members meant what they said and whether they will have the courage to address perhaps the greatest single problem this country has known in its history, and that is a budget lobby out of control, by supporting President Clinton as he sets about trying to restore balance to the American economy and to the American budgeting process.

Mr. KASICH. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, 218 to 16. Two hundred eighteen to sixteen. Those are the number of calls that we have received in our district office and in my Washington congressional office today. Two hundred eighteen calls from citizens, taxpayers, voters of the 10th District, against 16, encouraging me to vote for this plan. Two hundred eighteen to sixteen.

What does this plan do? It reflects the President's deeply flawed vision of change for America. It reflects a complete misunderstanding and misinterpretation of the mandate for change which was laid upon the President by the American people in November.

What is it that the people really want? They want smaller Government, not bigger Government. They want lower taxes, not higher taxes. They want less regulation, not more regulation. They want more freedom, not less freedom.

Two hundred eighteen to sixteen. And, Mr. Chairman, this is in a district in northeastern Ohio that is 2 to 1 Democrat to Republican in registration, that has had for 16 years representation by a Member of the other party.

Two hundred eighteen to sixteen.

Mr. Chairman, what will the effect be on average Americans? Four hundred seventy-one dollars for the average family in additional taxes due to the Btu tax. Four hundred eighty-three dollars in additional taxes to the average senior for Social Security taxes. Nine hundred fifty dollars for the average senior citizen in America in additional taxes as a combined result of the Btu tax and the Social Security tax.

Mr. Chairman, 218 to 16 against my voting for passage of this plan.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] has 44½ minutes remaining, and the gentleman from Ohio [Mr. KASICH] has 49½ minutes remaining.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I just want to say a couple of things: The first is that I am amazed at the reliance on the ignorance of the public that many in the majority party exercise when they talk about the Reagan deficits

and the Bush deficits, as though Congress did not authorize and appropriate every single penny of those deficits.

There is plenty of blame for Congress, dominated by the Democratic Party, to assume.

But look, we have in front of us the very onerous tax called an energy tax. It hits everybody: the poor, the middle class, the wealthy, the farmer, the worker. Everybody is going to be hit by this odious, onerous tax. It is going to help crush the economy.

In addition, you have a tax on Social Security, on older people who have been prudent enough to save a few dollars. And if a single person on Social Security has $25,000 in income, up go his taxes through the roof. For a couple, slightly more. Up go their taxes.

Both of those should not be in this program, but they are there, and there is no opportunity to get them out, because the majority party has used its powers to gag us so we cannot debate nor offer amendments on those topics. So voting for the substitute offered by the gentleman from Ohio [Mr. KASICH] is the only way to get rid of those disastrous, onerous taxes.

Certainly the Kasich substitute is not perfect. There are many things in it that many of us would want to change. But yet it is the only response to a terrible package that the Clinton people are bringing forward that means economic disaster.

So the only way to get rid of the energy tax, which is a killer, and the only way to get rid of that unfair Social Security tax, is to support the gentleman from Ohio [Mr. KASICH].

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume to respond to the gentleman from Illinois [Mr. HYDE].

Mr. Chairman, the gentleman from Illinois should read "The Public Confessions of David Stockman: The Triumphs of Politics." Stockman's quote:

> Kemp-Roth was always a Trojan horse to bring down the top rate. It is kind of hard to sell trickle-down, so the supply-side formula was the only way to get a tax policy that was really trickle-down. Supply-side is a trickle-down theory.

He also explained how they developed their numbers in Gramm-Latta, down to 31 billion, by hook or crook. "Mostly the latter," was Mr. Stockman's response.

Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, on behalf of my five grandchildren, I rise in support of H.R. 2264.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I thank the distinguished chairman of the Committee on Post Office and Civil Service for yielding.

Mr. Chairman, I rise in support of this bill.

Mr. Chairman, the gentleman from Missouri [Mr. CLAY] and I were here in 1981 when President Reagan had been recently elected on the promise that he would make change in the country. When he came in July before the Congress, before the House of Representatives with his tax plan, which was the heart of his changed plan for America, he got 133 Democratic votes.

If the gentleman from Missouri [Mr. CLAY] remembers, this was joined with 190 Republican votes and the bill was passed.

Mr. Chairman, I speak to my colleagues on this side of the aisle: every single Republican except one voted with their President, giving him a chance to put his plans into effect. I hope we all remember that today when we vote for this very good bill.

I will just take a moment, but there is a point I want to make that I would encourage my colleagues to consider.

In 1981, when Ronald Reagan became our President, the heart of his economic plan was his tax package. President Reagan was elected on a promise to make major changes in the tax system, and in the summer of that year the Congress had before it the President's tax plan.

Although many Democrats had reservations about the President's plan, 133 Democrats joined with 190 Republicans in voting on July 29 to approve the package.

Those Democrats felt that the newly elected President should have a chance to put his programs in place.

To my friends on the other side of the aisle, I say now we have another President who has been elected on a platform of change—a plan to reduce the deficit and revitalize our economy. The bill before us today is a key component of President Clinton's economic plan. Let's give the President a chance to make the changes the voters elected him to make.

To my friends on this side of the Chamber, let me note that in 1981 only one Republican did not support President Reagan on the 1981 tax package.

President Clinton is our President. We must support him. This is a good package. It is the largest deficit reduction package in U.S. history. Let's help our President fulfill the promises he made to the American people. I urge the adoption of the bill before us today.

Mr. CLAY. Mr. Chairman, reclaiming my time, under the provisions of the budget resolution, the Committee on Post Office and Civil Service was instructed to cut direct spending by $10 billion over fiscal year 1994 through 1998, and to reduce discretionary spending by $28.7 billion over the same 5 fiscal years.

□ 1620

While the committee fully complied with those instructions, the committee's budget reductions were not achieved without a good deal of effort and anguish.

Given the committee's limited jurisdiction over entitlement programs, the budget resolution put the committee in a very difficult and unenviable position. I doubt any committee was asked to come up with so much from so few.

The 4½ million Federal employees and retirees were asked to absorb over $39 billion in pay, benefits, and program cuts. That figure represents 16 percent of all the spending cuts contained in this reconciliation bill.

Nevertheless, the committee did not duck its responsibility. Rather, the committee worked very hard to ensure that the required spending reductions were made in the fairest and most responsible manner. When the budget process began back in February, I was determined to have the committee explore every possible alternative source of savings available to us.

I am generally satisfied that we have met our goal, Mr. Chairman. Locality pay was preserved. Benefit cuts for younger retirees were rejected. The committee refused to reduce survivor benefits for dependent children and surviving spouses, as was proposed.

Mr. Chairman, I know of no other group in this country that is being asked to suffer a greater reduction in their standard of living. But as they have in the past, the Federal workers will rise to the occasion, because it is in the best interest of the Nation.

Mr. Chairman, we must reduce the deficit and yet continue to provide essential government services. This bill does that, and I recommend a "yes" vote.

Mr. Chairman, under the provisions of the budget resolution, the Post Office and Civil Service Committee was instructed to cut direct spending by $10.6 billion over fiscal years 1994 through 1998 and to reduce discretionary spending by $28.7 billion over the same 5 fiscal years. While the committee's recommendations to the Budget Committee fully complied with those instructions, the committee's budget reductions were not achieved without a great deal of effort and anguish.

Given this committee's limited jurisdiction over entitlement programs, the budget resolution put the committee in a very difficult and unenviable position. Only two other committees of the House were required to produce more savings. I doubt any committee was asked to come up with so much from so few.

President Clinton and the Congress are asking the 4½ million Federal employees and retirees to absorb over $39 billion in pay, benefits, and program cuts. That figure represents 16 percent of all the spending cuts contained in the reconciliation bill. A disproportionate share of the sacrifices Americans are being asked to make will be borne by Federal employees and retirees. Nevertheless, the committee did not duck its responsibility under the budget resolution. Rather, the committee worked very hard to ensure that the required spending reductions were made in the fairest and most responsible manner.

On May 13, 1993, the committee completed action on reconciliation recommendations that

preserved the locality pay system for Federal workers, avoided reducing survivor annuities and averted a multibillion dollar shift in health benefit costs to Federal workers and retirees.

The changes in Federal pay will produce the largest spending reductions. The reconciliation bill will freeze Federal pay in 1994 by eliminating the January 1 2.2-percent pay adjustment. The bill also reduced the pay adjustments for calendar years 1995 through 1997 by 1 percent and changes the effective date of annual pay adjustments from January 1 to July 1 in calendar years 1995 through 2003. Because the pay adjustments for Member of Congress, Federal judges, and employees in positions under the executive schedule are linked to the pay system for Federal employees, the effect of these changes in pay adjustments is the same for these Federal officials as it is for Federal employees.

The committee's recommendations preserve the system for locality pay established by the Federal Employees Pay Comparability Act of 1990. The President had proposed a 1-year delay, followed by a substantial revision of the methodology for determining pay adjustments. Instead, the committee will implement locality based pay adjustments in 1994, just as the act had provided, although the effective date of the adjustments will be delayed 6 months to July 1. The reconciliation bill also establishes overall limits on locality-based payments to be made in 1994 through 1998. In order to meet these caps, the administration will have the authority to reduce locality payments otherwise authorized.

The reconciliation bill would delay by 3 months the cost-of-living adjustments under the Federal employee retirement systems in fiscal year 1994, 1995, and 1996. Under existing law, COLA's are effective December 1 of each year. Under this proposal, COLA's would not take effect until March 1 in the 3 fiscal years. The COLA delay would apply to all annuities payable under the civil service retirement system, the Federal employees' retirement system, and the Foreign Service and CIA retirement systems.

The reconciliation bill would repeal the lump-sum retirement benefit for all employees retiring on or after December 31, 1993, except for employees who have a life-threatening affliction or other critical medical condition. The lump-sum option has been suspended for 5 years under the Omnibus Budget Reconciliation Act of 1990 for all employees except this same group and involuntary retirees. This change in lump-sum benefits applies to the Federal employee, Foreign Service, and CIA Retirement Systems.

The reconciliation bill will extend for 5 years the formula for determining the Government's contribution under the Federal Employees Health Benefits Program. The formula, which was established in 1989 when Aetna withdrew from the program, will expire this year. Unless Congress extends it, the Government's share of health premiums would be reduced by $688 million in 1994; enrollee costs would increase by an average of 23 percent per month, an amount in addition to the expected 8- 9-percent increase in enrollees' premiums resulting from the overall increase in health care costs.

Other program cuts include a reduction in the total number of civilian employees in the executive branch by 1998 by 149,300, which is 10,000 more than the President proposed and assumed in the budget resolution. The reconciliation bill provides that to the maximum extent practicable, these reductions are to be achieved through attrition or other voluntary measures. In addition, the bill suspends cash awards to Federal workers and executives for fiscal years 1994 through 1998 and eliminates the current exemption from the limits on the accumulation of unused annual leave for members of the Senior Executive Service. The bill also would apply, beginning in 1995, the Medicare part B limits on physicians' services to health benefits program annuitants who are 65 or older and do not participate in Medicare part B.

In the postal area, while the committee prefers that the Congress fully fund revenue forgone appropriations to support nonprofit mailers, the budget realities preclude such action. Therefore, the recommendation will reform rate making for nonprofit mail. Except for appropriations to cover free-for-the-blind and overseas voting rights mailings, this reform will eliminate the need for revenue forgone appropriations. The reform represents a delicate compromise between nonprofit and commercial mailers. It raises rates for nonprofit mailers over 6 years, eventually 23 percent for fund raising letters and 12 percent for publications. The reform also eliminates commercial uses for nonprofit mail so that nonprofit mailers cannot use reduced rates to compete with profitmaking businesses. The bill authorizes $29 million per year for 42 years in appropriations to reimburse the Postal Service for phasing-in nonprofit rate increase and for revenue forgone losses in 1991, 1992, and 1993.

The recommendation also includes payments totaling $1.041 billion by the Postal Service to the civil service retirement and disability fund and the employees health benefits fund for past retiree COLA's and health benefits. The payments will be made in three equal annual installments beginning in fiscal year 1995. The committee believed that Postal Service payments required by the Omnibus Budget Reconciliation Act of 1990 ended any further Postal Service liability for past retiree COLA's and health benefit. These additional payments in the bill correct calculation errors and, the committee believes, represent the final chapter on this issue.

When the budget process began back in February, I was determined to have the committee explore every possible alternative source of savings within our jurisdiction in an effort to achieve the fairest and most responsible spending reductions. I am generally satisfied that we have met our goal. Locality pay was preserved. Benefit cuts for younger retirees were rejected. The committee refused to reduce survivor benefit for dependent children and surviving spouses, as the administration had proposed.

Federal workers and retirees are affected a great deal by this budget reconciliation bill. I know of no other group in this country that is being asked to suffer a greater reduction in their standard of living. As they have in the past, Federal workers will rise to the occasion to do their part for the greater good.

In conclusion, I commend the President and the Congress for confronting the No. 1 public policy problem facing the Government, namely, the Federal budget deficit. It has sapped our strength. It has made us as a nation timid in our commitment to solving the social problems facing out youth, the sick, and the poor. Our problems are too great for the faint hearted.

This is the first time in 12 years that we have confronted the deficit issue head on. If we succeed here, we will be in a better position to do great things, as a country and as a congress.

To their great credit, President Clinton and the Congress boldly propose to reduce Government spending by over $246 billion over 5 years. This bill will reduce the Federal deficit by a total of $496 billion over the same 5 years. Approving this reconciliation bill is the first step toward creating the economic prosperity that will create jobs and improve the standard of living of all American workers. The Democratic Party is the party of prosperity and equality. Without a strong economy, we will never have either fully. President Clinton and this Congress were elected to restore economic prosperity to our Nation. To vote for this bill is to do what the American people sent us you here to do.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, change is not enough. What good is change without progress?

I am a Democrat. I challenge any Democrat to match my record point-blank. But I am not a lemming. When the interest of the Democrat Party conflicts with the interests of my constituents, it is an easy vote for me. I will always vote for the interests of my constituents.

I have lost jobs over the years, and I am not going to vote to lose another damn job, whether it is a Republican plan or a Democratic plan.

Bottom line: This is the biggest tax increase in our history. And what bothers me is it has been drafted by the same Members, a small few select Members that have given us the Tax Code that rewards imports, kills our exports, kills our jobs and allows an IRS to feast on our own constituents, afraid of our shadow.

Why do we not cut some foreign aid, folks? What about all the billions going to defend Japan and Germany? What is it with a Congress that will shut down the bases in Philadelphia, all over America, but will not shut down the bases overseas that say, "Yankee go home."

No one worked harder to elect Bill Clinton than me, and I support him. His heart is in the right place. But I am not for this damn plan. And I say, as a Democrat, shove this big tax increase up your compromise.

We have had a number of compromises. We have had a number of compromises, and we are compromised out. I did not come here to associate with Monty Hall.

Let me say one last thing. We do have race wars in America. We have

age wars in America, gender wars in America. Now what do we have? A class war. Just jump on the rich, folks.

Let me tell my colleagues what, my district is one of the poorest and those so-called rich people I want to hire my people. I do not want them to have to leave our country.

We have put them up to here with the IRS, Social Security, unemployment comp, banking regulations, security regulations. Why the hell invest in America, Congress? They have not left because they are not patriots. Congress has not done their jobs. We have chased American jobs the hell out of here, and I will have no part of it.

I am going to vote today for my people. This will cost me 1,000 jobs, and I will be damned if I am going to lose another job, whether it has a Republican name or a Democrat name.

Mr. Chairman, I thank the gentleman for yielding time to me.

The CHAIRMAN. The Chair would admonish the gentleman from Ohio not to use profane language in his speeches.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of the legislation. Mr. Chairman, as they said in the movie, "All That Jazz," "It's show time."

For 12 years, we had Presidents who pontificated about balancing the budget. But year after year, they asked Congress to enact budgets with bigger and bigger deficits.

For 12 years, red ink flooded our national finances because no President had the courage to come before the American people and the Congress and say what we need to do to get our fiscal house back in order.

Last November, the American people voted for change.

Not for easy change; not for symbolic change. But for real change, beginning with the budget and with deficit control.

Bill Clinton has responded to that mandate with the equitable, effective, and enforceable deficit reduction package that is before us today.

It's show time, for Congress, for the press, and for the American people.

Let us make a real stab at being honest with the Nation. There is no alternative to the Clinton deficit reduction plan.

The Republicans, who quadrupled the debt to $4 trillion in just 12 years, have no alternative; they have rhetoric. And if rhetoric could reduce the deficit, we would have had a balanced budget years ago.

The Senate has no alternative: The naysayers are offering a plan that protects energy companies by impoverishing millions of elderly citizens. And everyone knows that plan cannot pass.

And Ross Perot? Can we get serious here? Mr. Perot's regressive plan calls upon the middle class, whose taxes rose to pay for the Reagan-Bush tax and spend frenzy of the 1980's, to carry the greatest tax burden now. That is exactly the reverse of the Clinton plan. I guess it isn't all that simple.

I know this budget plan is difficult for many Members, and that they worry about voter retribution. Let me assure you: Whatever voter anger you confront as a result of voting for this bill will pale in comparison to the voter outrage, press condemnation, and financial collapse that would surely, and justifiably, result from the failure of this bill.

COMMITTEE ON NATURAL RESOURCES

The Committee on Natural Resources, which I am honored to chair, has contributed to this deficit reduction effort by introducing greater equity, accountability, and managerial improvements to the Departments of the Interior and Energy.

Fees. Rather than raise admission and useage fees for national parks and forests across the board, the Committee on Natural Resources equalized our fee structure by imposing fees on commercial users of public facilities, by bringing certain fees up to fair market value, and by only then raising certain fees to individuals that had previously been excluded from the fee system.

Mining holding fee. We have continued the $100 annual fee for claim location and maintenance of mining claims, which makes permanent a policy imposed previously through the appropriations process.

Nuclear Regulatory Commission fees. We extend current law to require the NRC to collect fees sufficient to pay for the cost of administering its programs.

Mineral receipts sharing. In the past, the Federal Government has paid for the entire cost of administering the onshore mineral production program on Federal lands, and shared half of all receipts with the States. This bill would share the costs of administration on a 50–50 basis with the States.

Irrigation surcharge. Water provided by Federal water projects in the west has been traditionally and notoriously subsidized, resulting in overplanting of many crops and serious environmental problems attributable to drainage and diversions. Last year, with the enactment of Public Law 102–575, the Congress imposed a substantial fee on California irrigators to pay for the costs of fish and wildlife restoration programs. This bill imposes a modest surcharge sufficient to yield at least $10 million annually for 3 years, and $15 million thereafter, to finance a restoration fund in other States.

Grants for insular areas. Lastly, we impose several qualifications on the provision of additional grant assistance to the Commonwealth of the Northern Mariana Islands. Current law provides that the United States provide nearly $28 million to the CNMI annually. This bill provides that for fiscal year 1994, only $3 million will go to the CNMI for the purpose of completing a memorial to those who served in the Pacific during World War II, with the remaining $19 million available for distribution to other territories based on applications for capital improvement grant approved by the Secretary of the Interior. Further funding for CNMI, which has been wracked by serious scandals involving immigration policy, tax policy, enforcement of labor standards, and abuse of immigrant workers, would await passage of a future joint resolution. In the meantime, several different agencies, including the GAO, the inspector general of the Department of the Interior, and the Department of Justice, are directed to investigate and report upon the record of the CNMI government in improving these violations of law and other serious problems.

Mr. Chairman, our Committee also directs the Secretaries of the Interior and Energy to undertake thorough studies of the fees that are charged for services, to modify those fees to assure that all costs are fully covered by the fees, and to impose fees where none exist to reduce costs to the Government.

Lastly, our bill instructs that the President's annual budget submission include, in the future, an estimate of the unfunded liabilities of the Federal Government. Most Americans, including many in this Chamber, are unaware of the tens of billions of dollars in liabilities that our Government may well face as a result of obligations to clean up toxic waste sites, abandoned mines and oil wells, contaminated fish and wildlife habitats and many other costs that are, or could become, the responsibilities of taxpayers because those who caused the damage are unable, unwilling, or unavailable to do it themselves.

Mr. Chairman, that concludes the deficit reduction package approved by the Committee on Natural Resources.

I want to stress that many members of this committee cast tough votes for this package, and I want to acknowledge their courage and their dedication to deficit reduction, even at risk to their own political careers. They have demonstrated an unwavering commitment to fiscal responsibility, and I deeply appreciate their support of this important bill.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I have an unusual array of participants to thank today—Chairman CLAY, Chairman HOYER, Chairman SABO, Director Panetta, the organizations representing Federal employees, and as well, the CBO, OMB, OPM, and GAO for hard work that has led to a remarkable result. With their help, my Post Office and Civil Service Subcommittee on Compensation and Employee Benefits has met the President's requirement that we bring in $39 billion in documented savings, including two-thirds of his total discretionary cuts, all without extracting an intolerable burden from Federal employees.

To marry our mandate with concern for employees, we found alternatives to those originally proposed. The most important was keeping the long sought promise of locality pay to begin closing the average 30-percent gap between Federal and private sector employees doing comparable work. Proceeding toward this reform is especially necessary next year when Federal employees will have their pay frozen and will get sharply reduced annual increases for the next 3 years. At least beginning the 9-year process of closing the unconscionable gap avoids mass demoralization of the Federal work force and irretrievable losses in hiring and maintaining skilled employees.

From two dozen suggestions, we have found solid alternatives to avoid $700

million in new health care costs for Federal workers, a reduction in survivor benefits, a limit on the child survivor annuity, and a COLA cap and a COLA reduction on retirees below age 62.

Mr. Speaker, even with alternatives that replace more painful ones, Federal employees will absorb far greater sacrifices than other Americans. Thanks to a collegial problem-solving effort involving the subcommittee with other Members, employee organizations, Government agencies, and tireless staff work the pain will be far easier to bear.

Mr. KASICH. Mr. Chairman, how much time remains on each side?

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] has 44½ minutes remaining, and the gentleman from Minnesota [Mr. SABO] has 39 minutes remaining.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER]; a member of the committee.

Mr. HERGER. Mr. Chairman, according to the Tax Foundation, the energy tax alone will destroy 1,121 jobs in my district alone, jobs that we cannot afford to lose. Mr. Chairman, to tax or not to tax—that is the question we are deciding today. Do we cut spending first, by adopting the Republican alternative, which cuts the deficit by $352 billion over the next 5 years?

Or do we impose the largest tax increase in American history on middle-class Americans and senior citizens and force the average American family to turn over another $500 to the Government in taxes each year?

Moreover, if we do impose this $355 billion tax increase, will that money do anything to reduce the deficit, or will it simply be squandered on new spending programs?

Under the Democrat's proposal, our national debt will not only not be reduced, but will actually be increased by 50 percent from $4.1 to $6.2 trillion over the next 5 years. Why? Because the Democrat plan does not control spending.

Once the floodgates are open and the new tax money comes pouring in, do we really believe a cardboard deficit reduction trust fund is going to keep Congress from squandering the money? President Clinton's Deputy Director of OMB doesn't think so. Alice Rivlin said the trust fund won't change anything.

Mr. Chairman, if the Democrat plan was a credible means of reducing our deficit, there would be no doubt about its passage. There would be no need for the barrage of deal-cutting going on last night, whose total cost to the taxpayers is still unknown.

The Kasich amendment is the only plan that does what our constituents want us to do—it does not raise taxes on the middle-class or senior citizens. It cuts spending first.

□ 1630

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, there are many reasons to oppose the reconciliation measure. I am sure you are very excited about going home for the Memorial Day recess and facing the senior citizens who have just found out that you have voted for a 35-percent increase in the Social Security tax, which hits middle-income Americans hard. The Btu tax that masqueraded behind that nebulous title for several weeks is now out in the open and middle-income Americans now know there is a major tax increase on them. You have heard many speakers talk about these taxes, but there are many more hidden within this package that you may think you can cram down the throats of America with little or no notice.

Let me point out one tax that has not been talked about, but will affect 250,000 of your most enthusiastic single-issue citizens—the aircraft pilots of America.

Contrary to what some would have you believe, GA pilots are not fat cats. They are single-issue people who eat, sleep, and breathe aviation. In many cases, flying is the one thing these people enjoy and for many of them an additional $40 is a lot of money. You have probably been led to believe that GA pilots currently pay only nominal fees. In fact, the average GA pilot with a basic four-place aircraft pays at minimum $2,320 in federally mandated fees. This does not include fuel taxes or State imposed fees. So do not fool yourselves, what you are voting on today is not, as proponents would have you believe, a reasonable user's fee on a segment that pays little to nothing, but is in fact an additional burden on an industry that is already heavily taxed.

Aviation is not just a dying industry but is one that is almost dead. In 1979 we manufactured about 19,000 aircraft in America. In 1992, U.S. manufactured aircraft was 608. In less than 20 years, a world-class industry has been decimated. Although the lion's share of the blame for the decline of aviation probably belongs to the American trial lawyers for blocking meaningful product liability reform, today we are being asked to finish the job by taxing the industry out of existence.

Proponents of the tax increase argue that GA does not pay its fair share. First, it is important to recognize that GA pilots only use a small percentage of a system that has been designed and maintained primarily for airlines. Our airspace system is the most sophisticated in the world but because it was designed for commercial traffic, it offers services far in excess of what most GA pilots need or want.

Second, GA does pay its fair share in the form of Federal taxes on noncommercial aviation fuel—currently at 15 cents per gallon on avgas and 17.5 cents on jet fuel. This of course does not include the increased burden of the Btu tax which could amount to an additional $500 million over 5 years.

Third, GA's contribution to aerospace technology is irrefutable. Time and time again, GA—not the commercial sector—has developed and tested the technology that is used in state-of-the-art aeronautics. Breakthroughs like lamiter-flow wings, honeycomb construction, weeping wings, NACA scoops, and advances in avionics, are some of the many contributions GA has made to the aerospace industry.

What happens to aeronautical innovation if we push GA out of business? Well, recent history has shown that it stops. Since the decline of GA manufacturing in this country, innovative technological developments have moved overseas and cutting edge American technology is limited. In an industry where we once led the world in development, we are falling behind and will shortly not be a significant player.

Before imposing this new tax, we should ask how much it will cost to collect. Unfortunately, it is rather difficult to say at this point. However best estimates from the FAA appear to suggest the following: $28 to register the aircraft, $16 for renewal, $12 for a pilot certificate, and $12 for renewal. The proposal calls for a $12 triennial pilot certificate; thus, the $12 pilot certificate fee will not generate any revenue.

According to estimates, 80 percent of GA aircraft are less than 3,500 pounds and therefore are eligible to pay the lower $40 registration fee. That means that it will cost $5,774,944 to collect $8,249,920 in revenue in that category. Hardly effective. One has to wonder if we would be better off saving the $5,774,944 in collection costs.

Finally, before you vote on this tax, consider the entire package. By that I mean, the amount that an individual with a small airplane will pay is not just $40. It is going to be $40 plus the triennial pilot certificate fee of $12; plus additional fuel costs due to the Btu at 100 gallons per month that would be $100 per year; plus increased medical examination cost because medical examiners are going to pass on their $500 license fee to their patients; plus a $200 title and recording fee when you trade your aircraft. Instead of $40, we are conservatively talking an additional tax burden of $500 per year.

I was flying my plane back to Washington 2 weeks ago and I stopped at my normal halfway point, Owensboro, KY, partly because their gas is a few cents cheaper. I can remember stopping at that airport in the years past. The airport bustling with activity and enthusiasm, airplanes taxiing back and

forth—a major industry in action. As I taxied up to the gas pump, 2 weeks ago, I was the only aircraft on the field with a prop turning. You could have fired an AK–47 360 degrees and have not hit a soul. The aviation industry is near death today. These discriminating fees and taxes imposed upon the 250,000 remaining aviation enthusiasts will not go unnoticed. I am sure the President thinks that this number is too small to be concerned with.

Democratic Senator, PATRICK MOYNIHAN, chairman of the Senate Finance Committee, characterized the Clinton increases that you are being asked to vote on today as "the largest tax increase of the history of public finance in America or anywhere else in the world." The 250,000 pilots of America will not forget this.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD], the distinguished chairman of the Committee on Education and Labor.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of the Omnibus Reconciliation Act and in opposition to the Kasich substitute.

Mr. Chairman, as its part of the bill before us, the title reported by the Committee on Education and Labor would provide nearly $6 billion in savings over the next 5 years, according to the Congressional Budget Office.

The committee's reconciliation recommendations include three distinct items proposed by the President: replacing the guaranteed student loan program with a new direct loan program, requiring States whose student loan default rates are excessive to pay part of the cost, and amending the Employee Retirement Income Security Act of 1974 to permit the identification and allocation of third-party liability with respect to Medicare and Medicaid coverage under health plans.

I want to focus on the direct loan proposal for several reasons: It provides the biggest portion of savings, it is a terribly important reform for young people and their families struggling to pay college tuition bills, and it has been the target of a full-court lobbying effort replete with misinformation and misrepresentation.

Direct lending is based on the current pilot program. Simply put, direct lending would phase out subsidies to private lenders and split the savings between taxpayers and students, who would receive reduced interest rates and fees.

Students pay, on average, 6.5 percent of their loan in origination fees and insurance premiums—an amount which is deducted from the loan. Under direct loans, the origination fee would drop to 3.65 percent by 1998. In addition, the loan interest rate would be about 0.6 percent below the guaranteed program. Direct loans also would allow students a range of flexible repayment options, including income-contingent repayment. And students would benefit from a simpler process of obtaining and repaying loans.

Like the guaranteed loan system, the Direct Loan Program would be an entitlement. The mandatory spending would include all aspects of the program: the loan capital and administrative and servicing costs. There would be no gap in access to loans. Even so, the new program would save the Government $4.3 billion through 1998 and $2 billion per year after that compared to guaranteed loans.

The proposal would sweep away the system of 7,800 lenders, 46 guaranty agencies, and numerous servicers and secondary markets. In this complex setup, students go to a bank or other qualified lender, the loans are insured by a guaranty agency, reinsured by the Education Department and frequently resold in secondary markets. Under direct loans, students would obtain loans from their school. Most would receive all their financial aid through a single application at their school's financial aid office.

Qualified institutions could originate loans, receiving an administrative fee for each, but no institution would be required to do so. For those schools that decline to originate loans, alternate institutions or contractors, competitively selected, would handle loan paperwork. Either way, students would deal only with their school.

The committee recommendation is the result of careful study over several years by CBO, GAO, CRS, OMB, the Department of Education, and other public and private organizations. During the committee's deliberations on the reauthorization of the Higher Education Act last year, direct loans were discussed by 24 witnesses in 13 different hearings in Washington and around the Nation. The reauthorization, as reported by the committee, contained a phased-in direct loan program.

Nevertheless, Mr. Chairman, the special interests who benefit from the status quo continue to push a number of arguments against this proposal.

First, they charge that schools are not prepared to originate student loans. The fact is, three out of four students never see the inside of a bank to get their loans, they go to the school. As I stated, no school would be required to originate loans.

Similarly, opponents cite their own surveys indicating that institutions oppose direct lending. The surveyors, however, provide misleading descriptions of the direct loan proposal. They told college administrators they would be required to service the loans. Obviously, they did not reveal details of the direct loan proposal.

Next, opponents contend that the Department of Education is incapable of administering the program. It is a point familiar to those of us who watched the Reagan administration attempt to destroy agencies to support their argument that Government was the problem. One of Ronald Reagan's campaign pledges was to abolish the Department of Education. The Bush administration continued to starve the Department of adequate resources to execute its responsibilities and to use it as a dumping ground for political patronage.

Despite this dubious record, the Department successfully administered a direct loan program, the Perkins loans, with a portfolio of nearly $19 billion.

More importantly, we have a new President, a new Secretary, and a revitalized Department committed to the success of this program and the other education initiatives this country so sorely needs.

Furthermore, the Department will not have the full load of direct lending dumped on it in October, when the legislation would take effect. The legislation would phase in the program, beginning with 4 percent in the first year, roughly the size of the current pilot program. The proportion would increase over the next 4 years, and the Department would report regularly to Congress on its progress. We will be watching that progress.

That leads me to the next argument—that the advent of direct loans will mean the sudden end of guaranteed loans. This is not true either. According to CBO, even after the direct loan program is fully phased in, and outstanding guaranteed loan portfolio in excess of $90 billion will yield profits to lenders well past the year 2010.

Having made these arguments over the last several weeks, special interests—the lenders, led by Sallie Mae—contend that only they can maintain the viability of the student loan system.

To their credit, the student loan industry recently has been peddling alternatives to protect the status quo.

I want to address the only alternative scored as meeting the required CBO estimate, a bill introduced by our colleague, BART GORDON. I understand my friend decided not to present his bill as a substitute to the committee recommendation. Nevertheless, I think it is appropriate to examine his bill, H.R. 2219, for my colleagues who believe it represents a fair and credible alternative.

H.R. 2219 would meet the reconciliation target by swiftly slashing Federal subsidies to banks, guaranty agencies, and secondary markets. Unfortunately, the proposal has distinct disadvantages.

First, by cutting bank subsidies, H.R. 2219 likely would spur a massive withdrawal of lenders from the program and the collapse of many guarantors and secondary markets. This would immediately put at risk the availability of loans to the 6 million students who borrow annually.

Second, H.R. 2219 leaves in place the guaranteed loan system, universally criticized for its unnecessary use of middlemen and vulnerability to fraud. The Department's inspector general and the GAO investigated lenders who systematically over billed the Federal Government, students who defaulted because they did not know who held their loans, and guarantors who failed to ensure due diligence in collections by lenders. These abuses have resulted in the loss to the treasury of billions of dollars.

Third, H.R. 2219 provides no relief for student borrowers, only for the Government. Students would get no reduction in interest rates or fees, nor would they have the flexible repayment option of the committee's recommendation. For the last 12 years, the budget has been hard on students. They have been forced to bear the origination fee. They have had their loan checks delayed for 30 days as a savings gimmick. Their burden deserves relief.

Fourth, H.R. 2219 would provide $1 billion in annual savings beyond 1997, only half the savings of direct loans., It would do so by making cuts that have not been examined by the authorizing committee, education and labor.

I believe my colleague, Mr. GORDON, has tried to offer a good-faith alternative. I wish I could say the same about the industry that pushes it and others. Instead, we have witnessed a number of alleged grassroots campaigns that have turned out to be fronts for the banks and guaranty agencies who stand to lose the gravy train long provided by the current system.

This week, a number of our colleagues—led by Senator PAUL SIMON, Representatives TOM PETRI and ROB ANDREWS of our committee, and Education Deputy Secretary Madeleine Kunin—cast light on a number of these fronts.

One is an organization called Ohio Students for Loan Reform, which is actually run by the Student Loan Funding Corp., a secondary market for student loans. This front group ran ads in student newspapers, advertised a 1–800 telephone number that students could call to receive anti-direct-lending materials, and ran a drive to get students to send postcards to their Senators opposing direct loans.

We also learned of activities by the National Council of Higher Education Loan Programs, an organization of student-loan businesses. The council organized a panel of students purporting to represent the U.S. Student Association to appear at the council's expense at a council conference this week in San Francisco and enforce its anti-direct-loan position.

The fact is, the U.S. Student Association, which represents 3.5 million students at 350 member schools and State student associations, overwhelmingly endorsed direct loans at its convention in August 1991 and supported the direct loan pilot program that the Committee on Education and Labor included in the 1992 Higher Education Act reauthorization. The council obviously attempted to misrepresent the student association's position to further its political ends. It reluctantly announced at its conference that the panel it had recruited had no connection with the student association.

In Washington, Sallie Mae and the banks with a stake in the status quo have spared no expense to lobby Members of Congress to defeat the direct loan proposal. They have hired many of the most powerful lobbying firms in town.

It is unfortunate that the interest of banks have become so intertwined with the supposed interest of students, because this issue is not about banks, guaranty agencies, and secondary markets. It is about students and families and the best deal we can give them to help them pay for their educations.

As Deputy Secretary Kunin said in her statement on May 26 to the Senate Labor and Human Resources Committee:

One might well ask when we have such an opportunity to make government work better, who could argue with a plan to provide better benefits to students while significantly reducing federal costs and creating more efficiency? The answer is obvious: those who are enjoying substantial benefits from the present system—the banks, guaranty agencies, Sallie Mae, state secondary markets, and others.

Everyone in this town is talking about the need to cut spending and reduce the deficit. Under this proposal, we will do that, and we will reduce the cost of getting an education for millions of young Americans. Increasing opportunity and making college affordable is the purpose of the student loan program. It is one of the reasons why I was attracted to the Committee on Education and Labor. At least as far as student loans are concerned, we are not here necessarily to help the banking industry continue a profitable line of business.

Mr. Chairman, I hope my colleagues will join the committee in supporting this important legislation.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in support of final passage of the reconciliation bill, and against the offering of the gentleman from Ohio [Mr. KASICH].

Mr. SABO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, on behalf of the country, I rise in strong support of the reconciliation bill coming from the President and the House, and against the Kasich amendment.

Mr. Chairman, after 12 years of Republican spend and borrow, after 12 years of Republicans driving us to the brink of bankruptcy, this Nation is engaged in a struggle to restore economic health and fiscal sanity to our country.

I rise in support of President Clinton's deficit reduction package. Listening to the guardians of gridlock, you could not guess that we will be voting on the largest deficit reduction package in the history of this Nation—$500 billion over 5 years.

On the heels of a decade where we doubled defense spending, tripled the Federal deficit and saw our national debt balloon toward $4 trillion, this President is engaging in real deficit reduction. Over 5 years there would be approximately $117 billion less in domestic spending, $110 billion less in defense spending, $90 billion in cuts to entitlement programs, and $3 billion in cuts to foreign aid programs. For every new dollar in new investments, there will be $3 in cuts.

This President is also restoring tax fairness; 75 percent of the tax increases will be on families with income over $100,000. Every tax dollar in the bill will go toward deficit reduction. The relatively small additional energy tax to be paid by middle and lower income families will be offset by lower interest rates and an expansion of the earned income tax credit.

The President is asking more from those who can afford it the most. Under the legislation the richest 1 percent of American families will give back many of the tax breaks they got during the 1980's.

Besides leading us through the tough decisions to shrink the deficit, the President is tackling our economic problems. He is asking for help to restore hope for the 7 million people in this country who would rather earn a paycheck than a welfare check. He wants to invest in people again. I look at our State and see double-digit unemployment rates in many areas; I look at Skamania County and see almost 33 percent of the people out of work.

This bill includes $75 billion in tax incentives for investment, jobs, and encouragement of work effort, aimed at small business and at communities and individuals currently suffering from low incomes. That will mean more real jobs in the private sector.

By seriously addressing our Nation's deficit problems, cutting spending, and reprioritizing current spending patterns which aren't effectively addressing the needs of the American people, President Clinton is trying to build a strong foundation for our Nation's future. His plan is bold, serious, comprehensive, and revolutionary in its deficit reduction goals.

You will hear increasingly shrill cries that the President's deficit reduction package is only tax-and-spend. There is little credibility in those cries coming from the same forces who brought this country to the brink of bankruptcy and want to protect the wealthiest Americans. They are trying every trick in the political book to prevent the President from enacting his platform. They are fighting for the status quo of borrow-and-spend.

Make no mistake about it. This is a deadly serious battle. Our Nation's very future depends on it.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I thank the gentleman for yielding time to me.

For the last several days, many of our offices have been inundated with calls from constituents concerned about this bill. The concerns voiced varied widely, but the clear message I have received is that the people expect responsibility from this Congress and our President.

Taking responsibility for our Federal spending habits is not going to come easily, or cheaply. This reconciliation bill contains many provisions that I, frankly, do not like and would not support if considered separately. It offers more than enough pain to go around—pain for the citizens we represent and political pain for us.

But, the medicine we are taking, bitter as it may be, is the only cure available today for the deficit disease that afflicts us and that will ravage our economy if not treated. For years, we have chosen Band-Aids and aspirin to mask the symptoms. But it is time to seek the cure. We cannot afford to wait for some magic bullet that might be developed tomorrow or next year.

The reconciliation bill that we consider today represents a victory for moderate Democrats who have asked for, begged for, spending restraint and deficit reduction for more than a decade. For the first time in political memory, we are restraining all Federal spending. We are taking some of our spending off of autopilot—before we crash headlong into the mountain of debt.

It also represents a victory for middle-class Americans who have too long borne the weight of uncontrolled spending, spiraling deficits, and ever-mounting debt.

Finally, it represents a victory for the President. Despite his initial opposition to entitlement caps, he has proved that he is willing to listen. Unlike the last two administrations, this one is willing to confront our most dangerous economic problem honestly and directly.

Mr. Chairman, many of us could once again choose the short term political benefit of voting against this bill. It is tempting—very tempting. But, I believe there comes a time when we must act—a time to cut spending and to take real steps to reduce the deficit. As tough as it is, it is time to do the right thing.

I urge my colleagues to support this reconciliation bill.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, according to the Tax Foundation, the energy tax will kill over 3,000 jobs in the districts of the four Members that just spoke. In my district we will lose about 1,876 jobs. I think that is a very conservative figure, since I represent a lot of petrochemical plants.

Mr. Chairman, what we are witnessing here today, and it is amazing, as I watch it, reminds me of cartoons on Saturday morning: A lot of fantasy, and just the plot changes to fit the audience.

The Democrats start out by blaming all these problems and the deficits on the last 12 years on the last two Republican Presidents. But the same people, the same leadership, controlled this House over the last 12 years. The last election was supposed to bring change. Well, we got it. We started out this year with the Democrats wanting a big stimulus package, which was actually new spending, new deficit spending. The American people rejected it. They wanted spending cuts first.

Then we went from there to yesterday. The Democrats passed two new supplemental spending bills, with new spending adding to the deficit. Then the Democrats bring to the floor today a tax package that will cost jobs. I defy anybody to show me a tax increase of this magnitude that does not cost jobs and stall the economy.

Right now the economy is stalled just talking about all this. The President of the United States has not passed anything yet except those bills that were vetoed by previous Presidents, and just talking about this kind of economic theory, this economic package, the economy has stalled, and promise all the spending cuts later.

What we have brought the Members for their consideration is $430 billion in new spending cuts and no taxes and no gimmicks. I respect the gentleman from Texas, who is trying to hold spending down on entitlements, but I say to the gentleman from Texas, if he had come over to this aisle he would not have had to compromise with gimmicks. He would have had real spending restraint.

Americans have asked us to change and not have fantasies with new plots. If the Members really want to be honest, why would they not wait for spending cuts first? Why did they not wait to go through the entire appropriations process, where we could get at spending cuts? Instead, they started off by raising spending, they followed that by raising taxes, and we are promised spending cuts in the distant future. The spending cuts will never happen. They never have.

The American family is already paying over 53 percent of their income on the cost of government from the local, State, and Federal levels. They cannot afford any more taxes.

What you are doing is putting American families out of jobs, then raising their taxes. This tax package is a cartoon of horror.

□ 1640

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, my good friend from Texas sort of rewrites history. If he will look back, up until 1986 the Republicans controlled the other body, and through the support of the Democrats in the House here had a working majority with the Ronald Reagan administration. So I would say since 1986 that the $3 trillion, in excess of $3 trillion that we are now having in this country has been far, far more responsible for the loss of jobs in North Carolina and in Texas than anything that is going to be in this bill.

And the gentleman makes the point, and we had a little confrontation about this before, we have appropriated money, but we cannot spend one dime unless the President of the United States signs the appropriations bills, and I do not care what arguments you make, the facts are the facts. Facts do not lie, but liars figure.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I would love to address the ladies and gentlemen of the whole House of Representatives, but I have a feeling that it is pretty evident by now that the Republicans here today are in an opposition mode. I have a feeling there is a certain amount of denial going on, not only about the results of the election, but about 12 years of public policy in this country.

But I think it is obvious to all that the Democratic Party is taking responsibility for all of that today. We have been elected. Our President was elected. We have majorities in the Congress and we are about to do the things that have been put off for so long because of the blame game, and the gridlock, and the inability to have a consistent view on how we fix this economy.

It is painful. Nobody enjoys it. Nobody really wants to put up with the details of deficit reduction. Everybody is for it, in general, of course. Ross Perot can develop his positive swell in the polls by being an advocate for deficit reduction. But when he gets to the details of what he advocates, his popularity plummets.

Nobody wants to really go on the line and cut spending the way we have in domestic discretionary spending, the way we have in entitlements. And nobody ever wants to raise taxes. Nobody wants to pay them.

But this is a country that needs an economic agenda. It needs a future. It needs leadership, and it has a President who is not into playing a waiting game until his second 4 years, but who is willing to put it on the line in his first term.

Yet, what kind of response do we get? It is not the kind of bipartisan response that this party in some measure gave to President Reagan 12 years ago. No, we get unalterable opposition from the Republicans. We get the burden placed totally on the Democrats.

Frankly, I am proud of the fact that we are about to pick it up, and we are about to implement a plan, and we are about to take our future in our hands and see whether or not we can change the direction of this country.

This party takes responsibility. I think in the long term the American people will reward us for our leadership.

BILL IS PAST DUE

Judgment Day has arrived. The richest in our Nation had a great party during the last 12 years and now the bill is due. President Clinton is stuck with the tab and the Nation's credit line is overdrawn.

CHANGE PRIORITIES

A primal scream reverberated through the Nation last fall—change our priorities—but most of all, the American people want us to perform, end our individual quarrels and put our country above all. Today the Nation is tuning in to see if we heard them.

LARGEST DEFICIT REDUCTION EVER

The President presented the American people with a $500 billion deficit reduction plan—the largest deficit reduction plan in the history of our country.

THE 200 SPENDING CUTS

The President's plan has over 200 specific spending cuts including $100 billion in entitlement cuts.

CONGRESS ADDS $63 BILLION IN CUTS

The Democratic Congress added an additional $63 billion in spending cuts.

THREE OF FOUR NEW TAX DOLLARS ON THE RICHEST

This plan balances the tax burden on Americans—the rich will pay their fair share. No income tax increases on those who make under $115,000. Families who make less than $30,000 will not have any new taxes—period.

Three of four new tax dollars come from the top 6 percent in our country—the richest in our Nation.

LEND THE PRESIDENT A SHOULDER

It is time for us to lend our President a shoulder to get our country out of the ditch and back on the economic road of a recovery that promises new jobs and economic growth.

FOR CALIFORNIA $10 BILLION

By passing the President's economic plan we will lower the deficit and the drain on private savings, stimulate private investment and long-term productivity. In my home State of California, the lower interest rates, resulting from deficit reduction, are estimated to stimulate an additional $10 billion increase in California's gross State output.

FISCAL DISCIPLINE

With this plan we will begin to restore fiscal discipline.

GIVE OUR PRESIDENT SUPPORT

Give our new President the opportunity to lead this country back from the deficits of the last decade. He deserves our help.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. COX], a member of the Committee on the Budget.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I just note for the RECORD that according to the Tax Foundation, the energy tax will cost my colleague from California [Mr. FAZIO] over 500 jobs in his own district.

It is time that we pierce the populist fog and look at the truth about taxation and economic growth.

This bill raises taxes. Of that we can be certain. It is in fact the largest tax increase in American history.

It does not cut spending. Of that we can be certain. In fact, let me quote the outlay figures. From $1.4 trillion in 1993, this budget will increase spending to $1.5 trillion in 1994, $1.6 trillion in 1997, $1.753 trillion in 1998, for a total of outlays over and above the Republican substitute, which really does cut spending, of one-quarter trillion dollars of brand new deficit spending. That is what this Clinton plan is all about.

You cannot fix the deficit by raising taxes and increasing deficit spending.

Now, let us revisit this canard about the 1980's. We are told that we had this awful 12 years. Well, we had economic growth throughout most of the decade of the 1980's. The recession started after the 1990 tax increase on the backs of some of the seeds that were sown in that awful 1986 tax increase.

But look what happened during the 1980's. Between 1980 and 1990, revenue to the Federal Government increased from $517 billion to over $1 trillion.

The problem was not that we did not generate revenues through moderate tax policies that created economic growth. The problem was that for every new dollar in revenue that Washington collected, this Congress spent an additional $1.59.

It is deficit spending that is the problem, pure and simple.

Let us consider what happened during the longest peacetime economic expansion in American history. Over 21 million new jobs were created, poverty and unemployment of African-Americans, which increased under Jimmy Carter, fell under Ronald Reagan.

Mr. Chairman, the lesson is that you cannot reduce the deficit by tax increases, only by bona fide spending reductions.

The further lesson is that government maximizes its revenue not by a tax system designed to punish success, but by a tax system that provides incentives to reward success.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. FRANKS], a member of the Committee on the Budget.

Mr. FRANKS of New Jersey. Mr. Chairman, President Clinton claims that his budget is a bold, new initiative that will finally let us tackle the Federal deficit and the growing national debt. Well, I come from New Jersey, and I want to tell you that President Clinton's program is not really new. His prescription of higher taxes and new spending has already been tried in my home State and I want to share the results of that experiment with all of you today.

In 1990, our Governor imposed the largest tax increase in the history of our State. And let me tell you, the New Jersey economy is still reeling from the shock. Today, my State's unemployment rate is over 9 percent—the worst among all of America's industrialized States.

Mr. Chairman, this reconciliation bill we are considering today—all 1,500 pages of it—would take this country down the same road that New Jersey has been on for the past 3 years. For the citizens of my State, the Clinton tax program would mean an additional annual tax burden of almost $3 billion. Over $1 billion of that amount would be from the Btu tax that would hit New Jersey citizens especially hard. Mr. Chairman, my constituents cannot afford another $3 billion in taxes.

Those new taxes would be a knockout punch to a State economy that is not yet on its feet.

Moreover, the program the President is calling for will not work. It will not create more jobs and it will not reduce our deficit. According to the President's own numbers, in 5 years we will have racked up another trillion dollars in the national debt because, for all the talk of spending cuts, this bill fails to eliminate even one Federal program.

And the case against these new taxes goes beyond the fact they will not work. They are also fundamentally unfair. The energy tax will erode the economic strength of anyone making more than $30,000; the proposed increase on Social Security taxes will hit all those seniors making more than $25,000.

So much for the easy campaign talk of taxing just the millionaires to pay for deficit reduction and new Government spending.

Mr. Chairman, faced with the unfairness and economic dangers of these proposed new taxes, let us cut spending first.

Mr. SABO. Mr. Chairman, I yield the balance of my time under general debate to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means, and I ask unanimous consent that he be permitted to yield blocks of time.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KASICH. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I want to associate myself with the remarks of my colleague the gentleman from New Jersey [Mr. FRANKS].

Mr. Chairman, I rise in opposition to H.R. 2264, the omnibus reconciliation of 1993. And I do so with great frustration because I recognize the need to take strong action to reduce the budget deficit now. Unfortunately, this bill, as the cornerstone of President Clinton's flawed economic and budget plan, takes us down the wrong path.

THE DANGEROUS DEFICIT

Clearly, the budget deficit and our declining position in the global economy require firm action and determined leadership. The accumulating national debt poses a real and growing danger to our economic well-being. The billions of dollars we spend on interest on that national debt is money that is not available to create one job, repair one bridge, pay one medical bill, provide one student loan, or train one young American. Indeed, interest payments are slowly strangling economic growth.

THE SPENDING SPIRAL

In structuring a credible deficit reduction and economic growth package, we must first attack the spending spiral. We must significantly cut Government spending before we ask Americans to shoulder a higher tax burden.

This is exactly where President Clinton's plan fails. Despite the earnest pledges of OMB Director Panetta earlier this year that any deficit reduction plan would contain $2 in spending cuts for every $1 in new taxes, the opposite is true. The legislation we are being asked to approve today contains over $3 in increased taxes and fees for every $1 in spending cuts. In fact, of the $343 billion in reconciled reductions, only $70 billion is not from higher taxes.

If that is not bad enough, I take strong exception to the ongoing expansion of the Federal bureaucracy. In fact, not one program, not one, is eliminated here. Not even the now-famous wool and mohair subsidy or the honey support program. And this legislation contains $38 billion in new or expanded entitlement spending. I am astounded that anyone would even consider such new levels of spending on new programs before reaching tangible deficit reduction targets.

This is just more of the same—continuing a dangerous tradition of profligate spending without regard to the long-term consequences.

DIRECT LOANS

A prime example—the ill-conceived, ill-advised more in this legislation to get the U.S. Government into the direct student loan business.

There can be no doubt that the Guaranteed Student Loan Program has had its problems over the years. As a member of the Education and Labor Committee, I have led the charge for years in fighting for new taxpayer protections—measures that will sharply curtail the $3 billion a year loan default crisis.

I would go further with our reforms. But to take our current GSL system, and replace it with a direct loan program, run by the Federal Government with all its bureaucracies and inefficiencies, unsought and unwelcome by many of the institutions it will serve, seems to be the height of recklessness. We are opening up a budgetary Pandora's box here. CBO claims we will save over $4 billion following this route. I submit that when all the administrative costs are stacked up, when we add the cost to the taxpayers of capitalizing this system, and when we throw in the inevitable inefficiencies of creating another Federal bureaucracy, the taxpayers will pay for our haste.

MEDICARE AND MEDICAID

I am also deeply troubled by the deep cuts we are proposing in Medicare and Medicaid. Once more, we are trying to tell our aging Americans that all we have to do is ratchet down on waste, fraud, and abuse, and cut the fees of those rich doctors and expensive hospitals, and we will be able to cut costs and maintain quality health care. Experience shows us this is just not so.

Already, the Medicare Program is losing its ability to attract and maintain the participation of quality providers. Foremost, it is our senior citizens who shoulder the burden of these broad cuts. The last time we enacted cuts as deep as these in Medicare, beneficiaries saw their services and benefits decreased while their financial contributions increased.

In 1990, seniors' premiums jumped almost 20 percent, and deductibles were increased by a full one-third. New limitations and restrictions on services and shorter hospital stays have made seniors pay more and get less. That is, of course, when they were able to find a doctor willing to see a Medicare patient, let alone accept the fee that the government pays. The plain fact is that fewer and fewer doctors can afford to accept assignment, and more and more of our seniors are feeling the bite of ever-increasing copayments, premiums, and deductibles.

Are we supposed to think that these deep slashes in reimbursement will help this problem?

What we are doing here is in fact fanning the flames of the health care fire for everyone who is not serviced by Medicare, and cost-shifting $48 billion onto the backs of hard-working, insured, Americans.

It seems that once again, the sheer size of Medicare has made it an easy target for Draconian cuts driven by budget considerations instead of health care policy.

CHILD IMMUNIZATION

The committee has also failed to take responsible action on childhood immunization. Without any hearings or any legislative input, the committee has included more than $2 billion for childhood immunization activities. We all share the President's goal of immunizing our Nation's children—it is a disgraceful indictment of our Nation that our child immunization standards rank with Third World countries. But in simply throwing money at the problem, the committee has failed to address the root causes of this failure. Either through ignorance or apathy, too many parents—especially in rural areas and our inner cities—are failing to have their children immunized.

As long as it is the children who suffer from this failure, I continue to push the committee and the administration to hold parents to responsible, enforceable standards. I have proposed that we tie welfare benefits to child immunization: as a condition of receiving her AFDC check, a parent must certify that her child is up to date on immunizations. This model works. Historically, when we have told parents that their children absolutely will not start school without proper immunization, lo and behold, the parents get their children the shots. Our success rate is upwards of 90 to 95 percent.

It is so painfully clear that we have here the opportunity to take something that works and make it work better, that I cannot understand the logic of the committee in rejecting any such attempt. This action does not start to end welfare as we know it—indeed, I propose that it sets us back further. The immunization of our children is truly preventive medicine, and a cost-saver. Medical evidence shows that every $1 invested in child immunization saves $10 in future health care costs. If we are looking to get our fiscal house in order and make prudent health policy, this is the way to do it.

Mr. Chairman, we have heard a great deal of discussion these past few days regarding entitlement caps. Yes, we need to control the explosive growth of entitlements. But no pledge, no promise, no good faith effort will get the job done. We need credible, tough enforcement mechanisms.

Mr. Chairman, we must cut spending, halt the introduction of new programs and develop a Save and Invest in America Program of tax incentives—targeted capital gains tax cut, investment tax credit, expansion of IRA's, et cetera—that will encourage U.S. business to invest in new plants and equipment to become more competitive in the ongoing global economic wars.

This is the blueprint that starts us down the road toward genuine deficit reduction and economic growth. We owe it to the American people to take these important steps to regain our national economic footing.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in opposition to this giant act of subterfuge being perpetrated on the taxpaying American public.

Mr. Chairman, I rise in opposition to this giant act of subterfuge that is being perpetrated on the taxpaying American public. This bill is a job-killer—the Btu tax, the barge fuel tax and the Social Security tax are regressive, ill-conceived and oppressive.

No other nation in the industrialized world taxes its basic energy sources. The 250-percent increase in the barge fuel tax is confiscatory. The Social Security tax—levied on people with very fixed incomes—is cruel and mean.

President Clinton campaigned on promises of reduced taxes on the middle class. He promised $2 of real spending cuts for every $1 of new taxes. This measure gives us at least $3 in new taxes for every $1 of spending cuts. No wonder the public is disillusioned. People campaign and get elected on one set of rhetoric and then govern by a different set of principles.

This is the largest tax increase in American history. Since the end of World War II Congress has managed to spend $1.59 for every $1 of new revenue. We must cut spending to control the deficit. The history of the last 45 years proves that is the only way to cut the deficit.

□ 1650

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman I rise today to speak on behalf of rural Oregon in opposition to higher taxes and more Government spending.

First, I want to express my general opposition to this plan, then explain why this plan will thrust the Pacific Northwest into an economic tailspin.

Congress has tried this scheme before. This is no different than the 1990 budget agreement. Tax first to raise revenues, and we'll balance the budget later. Gramm-Rudman I, II, and III were the same too—champion the deficit reduction plan when it passes, and find a way to wiggle out of it later.

The message I am receiving from Oregonians is that they don't trust us with their tax dollars. They do not want new taxes, they want us to cut spending first.

Much of our discussion this week has centered around very large numbers. Hundreds of billions in new taxes, trillions in debt and, sadly, considerably less in spending cuts.

However, I would like to frame this decision in a more local context. I would like to present my colleagues with an analysis of this package and its impact on a typical wheat farm in Oregon.

The Oregon Wheat Growers League is fortunate to have as a recent past president, Dr. Clinton Reeder. Dr. Reeder has a Ph.D. in economics, and he may be unique in his line of work because he actually gives simple answers to straight questions.

I have relied heavily on his work for my own examination of this package and I would like to share some of my conclusions with you.

Raising flex acres from 15 to 20 percent costs this typical farm $6,041 next year.

The Btu taxes on fuel, lubricants, and barge or rail transportation, even

taking the so-called farm exemption into account, will cost this same farm $3,243 per year.

The costs of pesticides, fertilizers, and other chemicals will go up by $1,641 as a result of the new Btu tax.

The 250-percent increase in the inland waterway user fee costs this farmer $599. I might mention here that this is a cut from the originally proposed 500-percent increase, which some of my colleagues are proud of for some reason.

The Port of Portland, the largest port in Oregon, has told me that between the inland waterways user fee increase and the energy tax, the cost of water transportation on the Columbia River will increase 25 percent. How will industry manage this 25-percent increase? They will cut other costs, which inevitably means lost jobs.

Additional irrigation costs as a result of a 50 cent per acre surcharge on Bureau of Reclamation water and the Btu tax will cut this farm's income by $2,250.

Through a combination of all of these surcharges, program cuts, user fees, and energy taxes on fuel, chemicals, and fertilizers, the Clinton proposal will add $13,744 in additional costs to a typical 2,500-acre wheat farm in Oregon.

This same farm currently earns $50,849 before taxes. A $13,744 cost increase means this farm family will incur a 27-percent reduction in taxable income as a result of the Clinton plan.

That does not mean you skip your vacation this year. That means you let your hired man go. It means your child will not go to college. It means bankruptcy.

I have a chart which outlines these dollar costs, and I encourage my colleagues to review it, and consider its human costs, before voting.

Mr. Chairman, no matter how you look at it, a 27-percent hit on pretax income is outrageous. That is not sacrifice, that is robbery, and I will not be a party to it.

Finally, I want to discuss the aluminum industry. It is one thing to tax companies who can absorb the additional costs or pass them along to consumers. It is quite another to tax an industry, like the aluminum companies in Oregon and Washington, that already operate on thin margins dictated by world market prices. It chips away at their competitiveness.

For example, Northwest Aluminum of The Dalles, OR, in my district, will probably be forced to export 500 jobs to Canada. The energy tax, even with the so-called exemption granted by the Ways and Means Committee, will cost Northwest Aluminum $2 million annually, which must come straight out of operating expenses.

With the aluminum industry, we are talking about 40,000 jobs in the Northwest that depend either directly or indirectly on our nine aluminum plants. Speaker FOLEY knows what I am talking about: The largest employer in his district is the aluminum industry.

Mr. Chairman, this plan is backward. New taxes have never bolstered a dragging economy. Instead of taxing first and cutting spending later, we should cut spending first. That's what the American people want us to do.

The Agriculture Committee reported out reconciliation instructions the week before last. Ironically, the Democratic majority reduced spending for farm programs by $3 billion and added to the deficit at the same time.

How? While they cut farm programs by $3 billion, they voted to expand the $25 billion Food Stamp Program by an additional $7.3 billion.

Why? To help offset the adverse impacts of the largest tax increase in history. That is worse than ridiculous, it is tragically irresponsible.

The primary victims of this plan will be our Nation's farmers. The secondary victims will be Members of Congress who vote for the plan.

I urge my colleagues to reject the President's tax and spend plan.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, it is an opportunity today, an opportunity for this House.

I want to talk just a moment not about Democrats, not about Republicans, because both have been responsible for the last 12 years, getting us in the shape we are in, but this deficit and this debt are the most serious thing that this Nation faces.

The deficit feeds the debt which means more interest that our country has to pay.

In 1980 this Nation's entire debt was $800 billion. Today it is $4.2 trillion. We cannot continue that.

Now, gentlemen, you keep talking about the tax-exempt foundation that says so many jobs will be lost. You can find economists to develop whatever numbers you want.

I am from an energy State. I have a background in energy policy and understand energy policy.

This will mean positive things for Oklahoma. It will mean additional jobs in the natural gas industry. There are very positive things for this Nation in this bill.

In America today we have the lowest total energy cost of any country in the world, and we will have after this tax is passed as well.

The deficit reduction trust means every penny raised through taxes, every spending cut goes into the trust and has to be used for deficit reduction. None of it can be spent for new programs.

The entitlement caps are very important, but most of all, if you vote no today, do not say you are for deficit reduction.

You have an opportunity to start today. This bill is not everything I want, not everything you want, but if you vote no and go out here and tell your constituents you are for deficit reduction, you are not being truthful to them.

I would encourage my colleagues to step forward, do the right thing, vote yes, and start this country on a turnaround to addressing the deficit and the debt that we have.

Mr. KASICH. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Texas [Mr. ARCHER], and, further, I request that he be permitted to yield blocks of time as he sees fit.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have listened carefully to the debate, and I believe that there is sincerity on both sides.

This country faces a massive deficit. We need to move ahead to reduce it, and we need to do so now. But there is a vast difference between our two approaches.

I have heard from the other side that it only takes courage to vote for tax increases, as if it takes no courage to vote for spending reductions. That is far from the case.

I have heard from the other side that only the Clinton Democrat proposal shrinks the deficit, and that is not the case. But the Clinton Democrat proposal is so remindful of what occurred under Gramm-Rudman and particularly what occurred under the 1990 budget agreement.

The 1990 budget agreement, in fact, is so very similar to the Clinton Democrat budget agreement that I am surprised by it, because in the negotiations in 1990—and I was there every minute of the meetings at Andrews AFB and the other places they were held—the Democrats insisted on taxes on the rich. Those taxes were put in up front, and they are still with us today. The spending cuts were to occur, yes, you know it, Mr. Chairman, in the third, fourth, and particularly the fifth years. As in Gramm-Rudman, the spending cuts were very small in the first 2 years, but we were going to get big spending cuts in the third, fourth, and particularly the fifth year.

In 1990 the Congress refused to let the Gramm-Rudman spending cuts take effect, replacing Gramm-Rudman with the 1990 budget agreement, and now that we are at the threshold where we should get the big spending cuts from the 1990 budget agreement, this President will not let them go into effect. So we start over again with the Democrat budget from the President which cuts no net spending in the first 2 years. In fact, there is a slight increase in net spending in the first 2 years.

But, yes, again there will be taxes on the rich up front, and that is supposed to get the deficit down. But the deficit did not come down as a result of the 1990 budget agreement, and now in addition, we have major new taxes on middle-income and job-creating activities that are part of this new Clinton Democrat budget proposal.

What can the American people expect? In the Kasich budget, there is $86 billion of spending reductions in the first 2 years. In the Clinton Democrat budget proposal, there is over $90 billion of new tax increases in the first 2 years, and as I said earlier, no spending reductions on a net basis.

Oh, yes, there are some so-called spending reductions, but they are offset by the President's proposals for new increased spending programs in the first 2 years.

Why should we try 1990 all over again when it did not work? Why do we not really try change, something new, with the Kasich alternative which gets the deficit reduction totally from spending cuts?

Second, will the approach be good for the country or not? You heard our colleague, the gentleman from Ohio [Mr. TRAFICANT], who really hit the nerve center of this debate. Will this change improve the conditions of the country economically?

A program like the energy tax clearly costs jobs. it will make American industry noncompetitive in the world marketplace, because no other country in the world taxes its Btu's or its raw energy. Every product produced overseas from energy is going to be sold in the world marketplace at a price cheaper than our products.

I predict there will be no new refineries built in the United States in the future, no new petrochemical industries, no aluminum industry plants, glass plants, other types of manufacturing that uses a lot of energy. That result must surely cost jobs across this country—high paying manufacturing jobs.

□ 1700

I have not heard from the Democrat side, Look at all of the job creation in our program, because it is not there. It is the other way around. Americans should understand that as you reduce jobs, you reduce the tax base, the productive private sector that generates revenue for the Federal Government.

It is clearly the wrong path. Let us try something new that the American people have cried out for: cut spending and cut it in the first 2 years and cut it again more in the third, fourth, and fifth years.

That is what Kasich alternative would do.

I urge my colleagues to have the courage to vote for spending cuts instead of massive tax increases that will destroy jobs, that always destroy jobs which are essential to improving our standard of living, our productivity and our competitiveness in the world marketplace.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in strong support of H.R. 2264, the Omnibus Reconciliation Act of 1993.

This vote will be a very difficult vote for many of us, in part, because the public's attention has been shifted away from exactly what it is we are doing here today.

The fact is, by voting "yes" for this bill we are saying to our constituents that a majority in the House is willing to reduce the Federal budget deficit by nearly one-half trillion dollars over the next 5 years.

By voting "yes" we are saying to our constituents that Congress and the President are finally going to take responsibility for controlling the growth of entitlement spending.

And by voting "yes" for this bill, we are saying to our constituents that we are serious about keeping interest rates low and helping to create jobs—good jobs—all across America.

None of us really looks to voting for a bill that will both raise taxes and reduce spending on programs which are popular with millions of Americans. But this is the only way we will accomplish the goal of significantly reducing the deficit and its crippling effects on our economy.

By reducing the Federal budget deficit by nearly one-half trillion dollars over the next 5 years, we will increase the capital available to businesses—large and small—to expand and grow and hire new workers.

By reducing the Federal budget deficit by nearly one-half trillion dollars over the next 5 years, we will reduce the long-term cost of borrowing money for every business in America.

Mr. Chairman, we can not fail here today. For the price of failure for our economy, for our Government, and for our constituents is too high.

I urge my colleagues to vote "yes."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from California. [Mr. MATSUI].

Mr. MATSUI. I thank the chairman for yielding.

The gentleman on the other side of the aisle have talked about the fact that there is going to be massive tax increases to the American public. That just is not so.

We are trying to increase taxes and reduce the budget deficit because we want long-term growth in the economy.

The fact is there has been a lot of misinformation given: 78 percent of the senior citizens in America do not pay taxes now, and under this proposal 78 percent of the seniors will not be paying taxes after the bill passes and becomes law.

In addition to that, two-thirds of all the tax increases in this proposal over the next 5 years will be paid by families making $200,000 or more a year. Now, I wonder who we are trying to protect here. Are we trying to protect the wealthy? In fact, those people who make $20,000 per year actually have a tax decrease in this particular budget.

So this proposal protects middle-income people and reduces the budget deficit in the future.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE], a member of the committee.

Mr. CRANE. I thank the gentleman for yielding to me.

Mr. Chairman, according to the Tax Foundation, the energy tax will kill over 1,000 jobs in each of the previous two speakers districts. And in my own district it is calculated to kill over a thousand jobs, too. I thought I would pass that on as just a little frame of reference.

Mr. Chairman, Harry Hopkins was probably the most brilliant political adviser in the history of mankind. Back in the thirties he taught our colleagues on the Democratic side the formula for success: Tax, tax, tax; spend, spend, spend; elect, elect, elect.

And it is brilliant, and they are still engaged in it with a vengeance.

At the rate we have gone in past history, they can anticipate another 60-odd years of virtually uninterrupted control of the Congress, and now they have the White House, too. They come at us this time with the largest tax increase in the history of this Nation, the largest tax increase in the history of civilization, as a formula for trying to get economic growth and create jobs? There is not an economist on the face of this Earth either liberal or conservative who has ever attempted to suggest that tax increases create wealth in the economy, create growth in the economy, create new job formation and create new jobs. The fact of the matter is it is counterproductive and as destructive as it could be.

Second, however, the components of this bill, especially with that Btu tax in there, imposes the most regressive form of taxation imaginable.

In committee, I proposed, since there was an independent foundation study showing Btu tax input on health care is a cost of over $4 billion a year, an amendment to spare the health care industry. Yet in committee, it was shot down on a straight party-line vote.

For goodness sakes, why don't we exempt health care, why don't we exempt food? Whenever we pass sales taxes, we traditionally exempt food and medical prescriptions at the checkout counter. You do not want to hammer those people who are hanging on by their finger-

nails when it comes to the necessities of life. Yet that is what we are doing in that tax. I submit to my colleagues this is a mistake, let us go back to the drawing boards.

Mr. Chairman, given my time constraints, I would like to submit my full and complete statement on the Clinton package following these remarks.

Mr. Chairman, I rise to express my opposition in the strongest terms to the legislation before us today.

The Omnibus Budget Reconciliation Act of 1993, otherwise known as the Clinton tax bill, will be an economic disaster for the economy and the taxpayers. This is a tax increase which is not only the largest in the history of this country, but is the largest in the history of civilization. Let me emphasize—nothing in the history of taxes rivals the bill we have before us today. Yes, Bill Clinton is certainly out to make his mark on history.

Mr. Clinton's tax bill does violence to anyone who is trying to work for a living, save money for retirement, or start and maintain a small business. In addition, this bill will hurt American companies in their efforts to compete with foreign companies around the world, a fact which means one thing—lost American jobs.

But these are general observations, let me recite some specifics, for as Ross Perot is apparently fond of saying, "The Devil is in the details."

CLINTON ENERGY TAX

Perhaps the most damaging provision of the entire bill is Mr. Clinton's $72 billion energy tax.

This tax is regressive—that is, it hurts the poor and middle income family because they will pay a disproportionate share of this tax. Unlike sales taxes, Clinton's energy tax does not exclude basic necessities like food, medicine and clothing—it hits literally every product and service you can imagine.

This tax is hidden—unlike a sales tax, the American consumer will not see a line item on their bill identifying what portion of their expenditure is a result of the Clinton energy tax.

This tax is anti-competitive—it raises the cost of American products and hurts our ability to compete abroad.

This tax will significantly increase the cost of health care in this country. One estimate suggests that it could cost our health care providers over $4 billion per year. I offered an amendment in the Ways and Means Committee to provide a tax credit to health care providers to reimburse them for increased costs attributable to the energy tax. In short, this was an effort to keep health care costs from rising anymore than they already have. My amendment was defeated on a straight party line vote. All 14 Republicans supported my amendment and all 24 Democrats opposed it.

Did candidate Clinton not say he wanted to hold down the cost of health care? Did candidate Clinton not say he was going to give low- and middle-income families a tax break? Did not candidate Clinton say he wanted to increase our competitiveness and create jobs? What was Mr. Clinton thinking when he proposed this massive energy tax? Apparently all his statements last year were simply meaningless campaign rhetoric.

TAX ON SOCIAL SECURITY RECIPIENTS

Taxes on Social Security—this bill dramatically increases the taxes on Social Security recipients. In other words if you have saved for your retirement you are penalized for your thrift. Retirees will be doubly hit by this tax increase and the Clinton energy tax. How does Mr. Clinton propose that seniors cope with increasing taxes on fixed incomes?

TAXES ON SMALL BUSINESSES

Small businesses will be hurt by this package. Not only will the Clinton energy tax drive up the cost of providing goods and services, but this legislation directly hits the small business community and their employees in other ways. For example, Mr. Clinton proposes to cut the deduction for business meals nearly in half. Does Mr. Clinton understand the effect this will have on restaurants and their employees? What will Mr. Clinton tell the waitress or waiter who losses his job because of this provision? Moreover, does Mr. Clinton appreciate the fact that small businesses who do not have the huge advertising budgets of large companies, use the business lunch as a vital tool to bring in new customers and clients? Does Mr. Clinton care about those of you out there who want to pass your businesses on to your sons and daughters when you die? Apparently not, because Mr. Clinton has proposed raising Federal estate tax rates as well. No, even in death you cannot escape Mr. Clinton's taxes.

IMPACT ON THE ECONOMY AS A WHOLE

Finally, and most importantly, how is our economy supposed to grow and create jobs when roughly $300 billion is taken out of the private sector to be consumed by the Federal Government? How does taking $300 billion from the American people prompt consumers to spend more money on goods and services—consumption that stimulates economic expansion? How does Mr. Clinton think small businesses are supposed to get their hands on capital to expand, when the pool from which to draw that capital has just been diminished by billions of dollars?

MORE TO COME

Amazingly Mr. Clinton is not done. The $322 billion in new taxes in this bill does not include the billions of dollars in new taxes that the Clintons propose to raise to finance their health care proposals. Does Mr. Clinton think that the pockets of the American taxpayers are bottomless? Does he not understand that the American people are not undertaxed? Does he not understand that the problem is spending?

Perhaps Mr. Clinton is not familiar with the facts. Let me recite the facts for him. In 1980, revenues to the Federal Treasury were $500 billion. By 1992, revenues had more than doubled to $1.1 trillion. Yet our deficits continued to grow, which means spending grew at an even more alarming rate. No, Mr. Clinton, the Federal Government does not need more taxpayer dollars, and candidate Clinton was right when he said that what Americans need is tax relief. Unfortunately Mr. Clinton's ability to keep promises is apparently rather limited.

LESSONS FROM HISTORY

I should not have to remind my colleagues, but as a former history professor, let me, once again, recite some very recent history—the 1990 budget deal. Mr. Clinton's budget proposal sounds a lot like the budget deal of 1990—except on a much grander scale. In 1990 the Democrats promised President Bush that if he supported tax increases, Congress would cut spending. Well, we got the tax increases, but we never saw the promised spending cuts. In fact, for every $1 increase in taxes due to the 1990 budget deal, we actually got a $2.37 increase in spending in return. Indeed, historically for every $1 increase in taxes, Congress has increased spending by $1.59.

Are we doomed to repeat the mistakes of the past? How many times do we have to fall for Mr. Clinton's line—the line that says "I'll give you tax increases today for spending cuts tomorrow?"

CONCLUSION

Mr. Chairman, my constituents have been telling me to cut spending first. To that end I supported the budget proposal offered by Republicans which proposed real spending cuts in order to reduce the deficit. Mr. Clinton has proposed to increase taxes first, and his spending proposals promised for later are anemic at best. I will not be a party to this effort to repeat the mistakes of our past. In my view, the leadership of the other party wants to follow Mr. Clinton like lemmings over a cliff. If they were doing so at the expense of only themselves that would be one thing—unfortunately, if they follow Mr. Clinton's lead it will be at the expense of the American taxpayer and the economic prosperity of this country.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I want to take this time to respond to the wacko study on job loss that has just been quoted on this side of the aisle. What that study by the Tax Foundation does is stitch together two separate economic studies, one by DRI, which runs six scenarios. They use the worst possible scenario, make no adjustment whatever for lower interest rates, and somehow come up with the conclusion that there is a job loss in everybody's district.

DRI very specifically said they have not authorized the use of their study in that manner; they have run no studies of the Btu tax by congressional district. It is a phony use of it, as far as I am concerned.

Then they stitched together a second study done by—guess who—the American Electric Power Company. Now, if you think that is an independent analysis to determine job growth, I have got a bridge I will sell you.

The stock market, in contrast, is voting on this package, second day in a row, new record highs. They are betting this program will succeed; we should, too.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I am privileged to serve as a member of the Committee on Ways and Means and a Member of this House of Representa-

tives at this time which is so critical to the fiscal and economic future of our country. We, my colleagues, are all privileged. For the time rarely comes in public service that a singular enactment—act—can literally change the course of our country for years to come.

The arguments against reconciliation are broadly mischaracterized. In my State of Louisiana, an energy State, the effect of the administration's program is not a net loss due to new taxes, but actually a net gain of $528 million dollars in economic growth when the benefits of the overall plan are figured in.

It is important that we recognize the solemnity of our decision here today and that we posit the right question.

While the discussion has focused principally on the drawbacks of the choices placed before us today, the larger question is not what will happen if we do act, it is what will happen to our country should we fail to act at this crucial hour.

If we fail to act today to cut $496 billion over the next 4 years, we will add $4,000 in public debt to each of 106 million households in our country over that period.

If we fail to act, we will see interest rates grow, costing a middle-class family in our country far more to buy a car or a home than the modest tax increases involved in this Budget Reconciliation Act.

If we fail to act, we will miss the fresh opportunity offered by this bill to small businesses, to real estate investors, and to the larger corporate community to create jobs and grow our economy.

It is hard to think of this messy, complicated deficit reduction package as having historic and heroic dimensions, but it does. And it's hard to think of some of our Members who are making tough and politically risky votes for it as heroes or heroines, but they are.

By how we see our work today, will we define our future. Let us see the proposition and the duty that now lies before us. Let us rise to the call for action as this House and our institutions of government have managed to do over the life of our great country. It is our time. This is our moment. Let us not fail to seize it. I urge my colleagues to vote "yes."

□ 1710

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, it has been said here by the ranking minority Member that there is a vast difference here. There is. It is not between those who support taxes and those who do not. It is a difference between real stuff and rhetoric.

There has been much talk on this floor about jobs. A key to jobs is deficit reduction, and I stand up and proudly say that as someone coming from the industrial heartland.

The plan before us is the best, indeed the only hope for deficit reduction. There will have to be a deficit reduction II relating to health care. When you look at the figures in the seventies, Medicare and Medicaid, the growth in them were less than 20 percent of the total growth in entitlements that went up in the eighties to 45 percent. It is estimated that in the mid and late 1990's, unless there is a change, it would represent two-thirds of the growth in entitlements. We took a step toward controlling that with the provision in here relating to entitlements. We are going to have to go further in deficit reduction II reforming the health system of this country.

We have a chance now to pass deficit reduction I. Let us do it and do it proudly.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, today we take a hard step toward reducing the bloated Federal budget deficit, a $500 billion reduction, half of that coming from hard spending cuts.

On the discretionary side, a freeze for 5 years at 1993 levels. No increased spending.

On the entitlement side, for the first time a hard discipline, forcing the President and the Congress to act to keep spending within the budget that was just enacted by the House.

Second, the Btu tax has been modified. Changes have been made in that tax and further changes will be made to ensure that our energy industry can compete in an international marketplace.

Let me mention one aspect of this reconciliation bill that is important, important to the real estate industry, in my part of the country, in the southwest, and in New England, areas that have been hard hit by a recession and a lagging economy. The real estate industry was singled out in the late eighties and hit very, very hard in the Tax Code and in the marketplace.

What we have done in reconciliation is to allow real estate professionals to offset their losses from their gains, like any other professional business.

In addition, we are allowing real estate professionals with debt service to pay that out over time as opposed to being forced into foreclosure and forced to walk away from properties, an act that is happening over and over again in my part of the country.

This is an important step. Yes, you can run, but you cannot hide from this budget deficit. Today is an important day to make a first step. It is not fun. It is going to be harder before we are there. To get to a balanced budget, we have got to cut spending and we have got to raise reasonable revenue.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS], a member of the committee.

Mr. THOMAS of California. Mr. Chairman, I would just tell my friends on the other side of the aisle who preceded me that, according to the study by the Tax Foundation, about 4,500 jobs would be lost; but let us agree that the study was somewhat flawed. Let us cut it in half, that 2,000 people are going to lose those jobs. I still believe those should be retained.

Let me tell you, what you do not know can hurt you. I told you earlier today that despite all of my searching through all the language written down on the administration's position, on the joint tax position, and on the committee's position, that those rate increases were going to be indexed. They all said it.

In response to a question, the chairman said, "What is written down is what will be done."

I showed you, and this bill shows you that in fact bracket creep is back with us, that what was said cannot be believed.

Now, let me tell you, for those of you who have not read every page, let me tell you what is in this bill, and especially for those of you on this side of the aisle who are my friends who were called by the chairman of the Health Subcommittee crackers for health care, and who might have an interest in a managed competition concept that we are going to be dealing with in a few short months, and who do not believe that this is Armageddon and everything has to be done today or not at all, I invite you to look at title XIII, chapter 3, in sections 13–521 to 13–530. If you believe managed competition is an idea that will meet some of our health care needs, if you believe that professionals organized together in various associational groups will help us solve our problem, as I believe the First Lady's task force does, then you should not vote for this bill.

A simple example. Under the 1993 open enrollment plan for all members in the Federal Government, were this bill to be law, of the 14 plans available to you, 9 would no longer be available.

The one plan available to all members—a Governmentwide plan—Blue Cross and Blue Shield, would not be available.

The plans open to all, six of them not available.

The BACE plan, which I think most of you are in, the Beneficial Association of Capitol Employees, would not be available.

You could, in terms of those plans open to specific groups, belong to the Panama Canal area plan. You could belong to the Secret Service plan.

You are going to have very few plans available; 9 of the 14 plans currently offered are not going to be available if the health care section becomes law.

Believe me, what you do not know in this bill can hurt you.

Then of course, what you thought you knew can hurt you also, because they simply are not honest.

Mr. Chairman, I have a very personal reason for opposing this tax bill: It puts thousands of jobs in my district at risk. In fact, anyone voting for this bill is voting to put people out of work and curtail oil production in Kern County, CA. When the administration is saying our goal should be increasing employment and competitiveness, the bill clearly goes in the wrong direction.

The administration would like people to believe that the bill has addressed the most important Kern County production problems by taking the Btu tax off natural gas used for enhanced oil recovery and by allowing producers to burn their own crude oil tax free. Let me assure you, the administration's so-called Kern County fix does not fix anything at all. In the very real, competitive world of oil production, the Btu tax will put many producers out of business.

To put the situation in perspective, Kern County produces over 600,000 of the nearly 850,000 barrels of oil California produces every day. The bulk of Kern County's production is heavy oil, defined as 20 degrees API gravity or less. The average yield of residual fuel oil on Kern County heavy oil is 65 percent, meaning that refiners' and producers' survival depends on sales of a low-value product. Refiners cannot avoid producing residual fuel oil. They can invest in new equipment that might alter the amount of residual refining yields, but such equipment is expensive and many California refiners are already having to make difficult investment choices just to meet Federal and State environmental laws.

Residual fuel oil, oddly enough, has a high Btu content; the bill before us reflects that by assigning residual fuel oil the highest Btu factor 6.486 of any refined petroleum product. The Btu tax on residual fuel oil, $3.95 per barrel, is 25 percent to 28 percent of current price of resid. Bluntly, the Btu tax in this bill threatens all those people who work in and depend on this industry.

In spite of changes in the President's Btu tax made by the Ways and Means Committee, Kern County oil producers and refiners will still have a problem selling residual fuel oil. Under the bill before us today, utilities will collect tax on electricity based on the fuels each utility uses. Taxes will be determined on a utility-by-utility basis. Rates will be set monthly. Because residual fuel would carry a high tax rate, $3.95 per barrel, utilities would be discouraged from buying it even though the utilities get to pass the tax through to consumers.

The consequences of this tax will be drastic for California oil producers, refiners, and their employees. This tax will clearly cut California oil production by 81,000 to 127,000 barrels a day in the first 5 years. In total, anywhere from 150,000 to 300,000 barrels a day would be shut in in the decade following the tax's full implementation.

Those production losses mean lost jobs in California. One estimate shows a loss of 6,154 to 11,529 jobs 5 years after the tax takes effect, and 9,244 to 16,955 in 10 years. Between 40 percent and 50 percent of the impact will fall in Kern County. Other estimates show the job loss could be anywhere from 16,000 to 22,000 jobs.

These are good jobs. The average salary in the industry is $45,000. If this bill passes, California will ultimately lose anywhere from $200 million to $400 million in wages every year. That is a tough burden to bear in a State like California where unemployment is over 9 percent and especially in Kern County where unemployment is almost 2½ times the national rate.

I cannot support a bill with such serious implications for people in my district.

Mr. Chairman, I have a procedural reason for opposing the bill, one that should concern every Member of the House. This bill contains a provision that is not before us as a result of appropriate procedure. Every Member of the House should be outraged at its appearance in the bill because the process through which it was included threatens every Member's ability to protect his or her constituents by relying on the procedures of the House.

The section I am concerned about says that indexing the President's two new tax rates to protect taxpayers from inflation-induced bracket-creep will not begin until 1995—2 years after those rates go into effect on January 1, 1993. The delay, which takes another $636 million from Americans, is hardly insignificant. Its use is also totally inappropriate for anyone who believes in truly representative Government.

I can assure you that this indexing delay was never discussed when Ways and Means reported the tax bill May 13. It was not revealed in the documents presented to Members. Staff did not mention it in their explanation of those documents. When I specifically asked the chairman of the Committee on Ways and Means if the documents lacked anything that would appear in the actual bill language, I was assured they did not. The only possible way this provision should be in the bill is to accept a disingenuous explanation that the indexing delay, which was never revealed prior to the committee's vote to report the bill, was a technical change staff was given permission to make after the bill was adopted to ensure Members' intent was realized.

No one can realistically claim that $636 million is a small sum or that a significant change in the effective dates on a key tax provision is somehow technical. Yesterday, I asked the Rules Committee to address this impropriety by striking the provision from the bill. As a result of the Rules Committee's failure to do so, none of us can guarantee our constituents that their rights have been protected through the procedures upon which every Member of this House relies. Every Member should put aside the politics involved in this bill and consider just what accepting the indexing provision will mean: It would be sanctioning procedures that allow Members to be incorrectly informed about key components of a bill which they are asked to address in the name of the people in their districts. The procedure used here is unacceptable to me and it should be to my colleagues as well.

Even Members who are willing to pass the biggest tax bill in history, who are willing to distort U.S. energy production and cause chaos throughout industry, should be concerned about this matter. What some would term a minor provision is in fact a threat to the processes our constituents expect us to employ in their interests. The bill is worth rejecting on that basis.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, the time to act is now. The bill before us is a good bill. It is a bill that will be real in deficit reduction. It is balanced, half in real spending cuts, half in revenues, all calling for deficit reduction, and it is fair.

Despite the emphasis that my colleagues are putting on the Btu tax, what impact that will have, the Btu tax will raise revenue for deficit reduction. It will help us in energy conservation.

When the tax is fully implemented in 1998, including the Btu tax, for an individual whose income is $50,000 or less on average, will pay an extra $23 a month.

For those at $200,000 or more, $1935 a month more.

It is a fair, balanced package.

My constituents want action. I urge my colleagues to support the bill.

Mr. Chairman, I rise in support of the reconciliation bill. It represents the most honest, serious plan for deficit reduction that we have ever considered in the House of Representatives.

For the past dozen years, Republican administrations and Democratic Congresses talked about the deficit, but nobody did anything about it.

This bill marks the end of the talking, and the start of doing something. It's about time.

Over the past dozen years, the Federal budget deficit has risen steadily from under $100 billion, to $200 billion by the middle of the decade, to over $300 billion by the end of the decade.

The deficit in fiscal year 1994 will be $300 billion if we do nothing, if we just go on talking about the deficit. This reconciliation bill chops $500 billion off the deficit total over the next 5 years. Along with the limits on appropriations, it will reduce the deficit in the fiscal year that starts in October by $42 billion.

In the fifth year of this bill, it will reduce the deficit by more than $160 billion. If you want to cut the deficit, if you want to put an end to the growth of Government borrowing, if you like low interest rates, if you want to make more capital available for private investment, you should act now and support this program. The amount of deficit reduction in this bill will, in the opinion of two Nobel Prize-winning economists, make room for a 40 percent increase in spending on capital equipment, financed by private saving that otherwise would get consumed by Government borrowing.

This plan cuts spending. It cuts $87 billion in net direct spending. It includes enforcement provisions that will cut another $102 billion through appropriations process. It will achieve savings of $55 billion in interest costs.

The spending cuts are real, and tough, and they will hurt. The plan cuts $59 billion just in

Medicare and Medicaid. It doesn't make promises, it makes cuts.

The bill includes another $28 billion in entitlement cuts, in agriculture, education, housing, natural resources, veterans, and Federal employee and retiree benefits. This is strong medicine, to get the job done.

In addition to the program spending cuts, the package will reduce Federal borrowing costs by $55 billion over the 5-year period. For too long, interest payments on the national debt have been the fastest rising area of Federal spending. These payments don't buy a single scholarship, feed a single child, repair a single highway, or meet any other Federal policy priority. Under this plan, we start to turn things around, and slow the growth of interest payments.

Actually, the bill reduces interest payments in two ways. First, by reducing the deficit, it will lower our outstanding indebtedness, on which we pay interest. Second, and more important for the economy, the bill sends the clear signal to the bond markets that we are serious about deficit reduction, which encourages the market to keep interest rates low.

In addition, the bill includes the enforcement provisions that will freeze discretionary spending at current levels for the next 5 years. This provision will save $102 billion over the next 5 years.

The other half of the deficit reduction comes from taxes. The tax increases included in the bill are imposed overwhelmingly on the wealthiest 2 percent of Americans and corporations with incomes greater than $10 million.

Over 95 percent of American families will have no increase in their income taxes. After the Btu tax is fully phased in, in 1998, the monthly tax increase from the President's entire package, including the Btu tax, on a family with income under $50,000 will be less than $23 a month. Those with incomes above $200,000 will pay an additional $1,935 a month.

Mr. Chairman, this program is real. The spending cuts and new revenues go for deficit reduction. The program is balanced. New revenues are matched by spending cuts. The program is fair. It puts the tax increases on those who can most afford to pay. And the program will work. It puts our country on the road to fiscal stability and economic growth. I support it, and I urge its passage.

Mr. SPENCE. Mr. Chairman, in this debate on whether to pass the largest tax increase in our Nation's history, I'm appalled by some of the arguments my colleagues on the other side are utilizing. Several of my Democrat colleagues have said that we need to pass this bill in order to cut the deficit that Presidents Bush and Reagan produced.

Excuse me? Presidents Bush and Reagan increased the deficit with their budgets? Mr. Speaker, unless there have been some constitutional changes of which no one has been apprised, it is the responsibility of Congress to enact and pass the annual budget. Regardless of whether a budget comes before us from a Democrat or Republican White House, Congress deliberates and amends that proposal, and the product that is sent to the White House is the handiwork of the House and Senate.

Mr. Chairman, we have an enormous national debt. I don't think you'll hear anyone questioning that fact. But it appears to me that placing the blame on the shoulders of past Presidents is not only dubious rhetoric, it is arrogance. Do my colleagues on the other side actually believe that the American people are so gullible as to believe that Congress has no say in how Federal funds are spent? Does the majority leadership actually believe that their strained attempt at shifting blame will assuage the public's genuine concern over our fiscal problems? To even suggest such is an insult to the intelligence of the American people.

Mr. Chairman, a few months ago, we heard about a new era dawning in Washington, a new approach to government, a call to national service. According to what I have heard in these hours of debate, I would have to agree there's a new approach all right. It's called the contribution and denial approach; Congress will require the American taxpayer to contribute more, and then Congress will deny it ever asked for it.

Mr. FIELDS. Mr. Chairman, I rise today to voice my opposition to the proposed Btu tax, and my support of the Kasich amendment as a Representative from Texas and as a member of the House Committees on Energy and Commerce, and Merchant Marine and Fisheries, I have spent considerable time on energy related issues.

First of all, as a revenue raiser, this proposed tax fails to pass a critical test: the test of fiscal responsibility. Since the tax was first proposed, various interest groups have chipped away at the package until the revenues that the tax would raise are considerably lower than expected. Originally, the tax was expected to raise $25 billion annually by 1997. But, according to the Institute for Research on the Economics of Taxation, $20 billion of those revenues will be needed to offset proposed credits, assistance to those on low incomes, and reduced revenues from other sources due to depressed economic activity. We are being asked to vote for an energy tax that will cost this country more than 400,000 jobs, and that will raise just $5 billion? If we pass this misguided tax, never in our Nation's history will so many have sacrificed so much for so little.

Another argument for the energy tax, that we have heard from the administration, is that the tax is environmentally friendly—that Americans will become more energy efficient and move toward greater use of clean fuels. I believe that this is another argument that fails to pass an important test: the reality test. While shutting down 26 refineries may improve the environment in this country, what will it do to the global environment as refineries are built in countries with less stringent environmental regulations? What will increased tanker traffic do to our coastal communities? How many more oil spills will we have? How will the country get its supply of reformulated gas and other mandated clean fuels? What impact will increased imports have on our trade deficit? What about national security? About the only positive environmental impact this tax package will produce is that in destroying 400,000 American jobs, there will be fewer commuters driving their cars to work each day!

Between the Clean Air Act and this proposed tax, this country will lose almost 20 percent of its refinery capacity by the end of the decade. In addition to the refinery problem, the tax is punitive to clean fuels, providing little incentives for industries to switch to more environmentally sound fuels like natural gas.

Third, the administration has argued that the reason it proposed a Btu energy tax is that it is fair to every region of the country. If this tax is so fair, why will Texans be paying 75 times more in energy taxes than people who live in Vermont by the year 1996? The national average for energy use per capita in 1989, was 330 million Btu's, in Texas it was 495 million Btu's. Texas residents and industries are major consumers of energy as well as major producers. It is ludicrous to assume that they will pay equal taxes as other parts of the country. A study by Texas A&M University predicts that the State will lose $3.089 billion per year by 1998, in gross State product [GSP]. The energy tax will reduce personal income by $3.26 billion in Texas, with the average family of four paying an additional $708 a year in energy taxes. This increase is more than twice what the administration is predicting for the rest of the country.

But Texas is not alone. Other States that are highly energy-intensive and whose residents travel long distances will also feel a much greater impact from the proposed tax than currently predicted by the administration. So, this proposed tax fails to pass another test: the fairness test.

The proposed Btu tax which, at best, will raise $71.5 billion through fiscal year 1998, but, at worst, will cost more than 400,000 Americans their jobs—will also, lower our gross domestic product [GDP], make it difficult for senior citizens and others living on fixed incomes to afford the energy they need, and will continue the decline of our domestic energy industry. There are other less costly ways to decrease the deficit, improve the environment, and become more energy efficient.

Many Members have put forward proposals to achieve deficit reduction without this onerous energy tax and other proposed taxes. I wrote to President Clinton on March 8 of this year, with a list of spending cuts and freezes that would result in a savings of $384 billion over a 5-year period. This could be accomplished without imposing even 1 cent in new or increased taxes.

Congress has passed two major laws in the last 3 years that will improve our energy efficiency and our environment. The Clean Air Act Amendments of 1990, and the National Energy Policy Act of 1992 provide additional programs and incentives to use environmentally friendly fuels, cut back on many air pollutants, switch to cleaner fuels, and so forth. Why don't we give these laws a chance to work before inflicting even greater financial pain on the consumer and the energy industry for very few, if any, benefits?

Mr. Chairman, generally when someone or something fails to pass the test, it is time to go back to the drawing board, to relearn, or reinvent. I believe that this is what we need to do with this reconciliation bill, especially the proposed Btu tax. That is why I urge my colleagues to support the Kasich amendment to reduce the deficit in a fiscally responsible, fair, and real way.

Ms. LAMBERT. Mr. Chairman, voting against this deficit-reducing package would

raise an impassable stop sign on our road toward economic recovery. Our $4 trillion deficit did not sprout up overnight and we cannot cut it down in 1 day either. But this package offers us the first real attempt at deficit reduction that this Nation has seen in 12 years. The entitlement caps and deficit reduction trust fund that this legislation provides are key to getting our Nation back on track.

President Clinton's plan is a real step toward reducing the deficit and it's a step which the American public has repeatedly cried out for in the last year. Within 5 years, this plan will reduce the deficit from nearly 5 percent of our gross domestic product to 2.6 percent of the GDP. The deficit trust fund offers the American people a legally binding promise that spending cuts and tax increases will go toward reducing the deficit.

The people of the First District of Arkansas have called for spending cuts and we have answered by freezing discretionary spending at 1993 levels for 5 years. This will save $102 billion.

The proposed tax increases and spending cuts are not easy to swallow. But they present a sincere effort at reigning in the feel-good spending of the last 12 years, under which our national debt grew. I am especially pleased with the addition of entitlement caps that will sound an alarm to be heard by Congress and the President if entitlement spending goes too high. These caps will force Congress to come together and vote before allowing spending to exceed the caps.

As a representative of the agriculture-intensive First District of Arkansas, I have shared our farmers' concern over the proposed Btu tax. I have stood at this very podium and spoken on radio and TV against the Btu tax because I believe it will place an unfair burden on farmers who cannot pass added costs on to consumers. But Senator BOREN's alternative to the Btu tax would cut Social Security. And no one from the First District of Arkansas has called asking me to cut Social Security spending.

I continue to oppose the Btu tax, but I feel confident from the commitments I received in phone calls this morning that the Btu tax will be reduced or eliminated in the Senate or in conference committee. Today's vote does not flash a green light for the Btu tax, and I urge the farmers in Arkansas to be patient with Congress as we work over the next few months to eliminate this tax.

In conclusion, having talked to Arkansans who have repeatedly asked for spending cuts and deficit reduction, I cannot in good conscience vote against this package which goes so far toward fulfilling their request. Therefore, I stand in support of this legislation under the blinking yellow light of caution. I will continue to work toward necessary changes in the Btu tax, but I firmly believe the remainder of this proposal puts us in the express lane toward economic recovery.

Mr. PENNY. Mr. Chairman, the public debate raging in this country about the role of Government, the responsiveness of public institutions, and the size of our Federal debt, are joined in the debate on the budget reconciliation measure before us today. The American people have been rightly critical of the inability of the Congress and the President to responsibly resolve the budget deficit in recent years. While gridlock gripped Washington, the American people have struggled with the consequences of our inaction.

The 1992 election brought a new President dedicated to making Government work—dedicated also to reducing the budget deficit. While we can be critical of his handling of this measure, I believe the President has not been given sufficient credit for putting before the country the very real and painful choices that are necessary to reduce the budget deficit.

Some here do not like the President's priorities and have suggested alternatives, others among us continue to talk about deficit reduction as if solutions will appear out of thin air. Well, the choices are tough—very tough. I doubt if any Member of Congress truly likes this measure; there are no cheerleaders for higher taxes and program cuts for their own sake. But eliminating the deficit requires taxes and cuts. Those are the choices—and they are difficult for all of us.

I had hoped this bill would contain more cuts, less taxes, and more deficit reduction. But, as Benjamin Franklin once said, "He that lives upon hope will die fasting." At some point, consensus among the alternatives must be reached. And what we have before is not perfect, but it is the best we can do at this time, and it is certainly preferable to doing nothing.

Let me just speak briefly to the bill because there are a number of important provisions. The entitlement cap in this bill, which I helped to negotiate, is unprecedented. For the first time, a process is established for reviewing the growth of mandatory spending programs, which together represent almost one-half of all Federal outlays. For too long, one half of all spending has been on automatic pilot, unrestrained by the annual budget process. With the passage of this bill, that will change. Both the President and the Congress will now be forced to propose changes to entitlement programs to rein in their growth. That is a very important reform. It will lead, I believe, to real long-term deficit reduction. It will force the Congress in the future to face the deficit issue squarely and honestly.

The extension of the discretionary budget caps in this measure—the only real brake on the growth of Federal spending since 1990—is also an important reform.

This measure contains nearly $500 billion in real deficit reduction over the next 5 years. With tough enforcement on entitlement and discretionary spending, real long-term deficit reduction will occur.

Someone once said: "It is natural for man to shut his eyes against a painful truth. * * *" Today, we open our eyes and make a few tough decisions. I urge my colleagues to join me in supporting this measure.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman. I thank the gentleman for yielding this time to me.

I just would like to say that my colleague, the gentleman from Maryland [Mr. CARDIN] who just spoke, if this bill passes it is going to cost his district 1,219 jobs, and I hope he thinks about that.

□ 1720

Now, many of my colleagues on the other side of the aisle said they were going to control entitlements. Let me tell America about an entitlement that they have not talked about. They put a new entitlement in here for emergency health care for immigrants costing $300 million, a new entitlement, not an old one.

Now why are they doing that? Because they want to help some of those States that have illegal aliens coming in that are having children.

But let us look at what has been going on. In California they have a program called the MediCal Program, and I want to read to my colleagues from a brochure from California about what they are doing.

They say that the law has changed and the new law will help you if you are going to have a baby even if you are an illegal alien or if you are here under an amnesty program. Will it affect my amnesty? No. If I am here illegally, will it be reported? No. And finally they say: Remember the information you give to the worker is confidential. It will not be reported to immigration.

Last year in Los Angeles County alone, and get this, America, there were 37,000 illegal alien babies born, and each one can get AFDC totaling $620 a month. That is $25 million a month that is being paid out for AFDC for illegal alien children.

And what are they doing about it? They are adding a new entitlement for $300 million to help pay the State's portion of that cost. Up until now the State paid half of it. But now they are going to pay all of it from the taxes from around the country.

They say this is a responsible budget. It is going to cost more in taxes, the largest tax increase in history. It is going to cost jobs. It is going to hurt the economy.

And what else are they going to do? They are inviting illegal aliens from Latin America and Mexico to come to this country to have babies that our constituents are going to pay for with AFDC payments, and they are going to be American citizens. I say, "We shouldn't be doing this. It's a mistake. It's a new entitlement, and they are putting it on your backs."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself 4½ minutes.

Mr. Chairman, I rise in strong support of the President's economic plan for reducing the deficit and revitalizing the economy. The 103d Congress is about to be tested, and the entire country will be watching.

Taxpayers all across America are tired of the constant bickering in Congress and demand action to reduce the deficit. And our constituents want to know if we have the fortitude to take a tough vote to improve the economy.

We cannot shrink from this challenge, even through our Republican

colleagues will not, by choice, join us in making the difficult decisions necessary to govern our great Nation.

Mr. Chairman, when we passed the budget resolution conference report 2 months ago, the Committee on Ways and Means faced an ambitious task: approve nearly $300 billion in deficit reduction. I am proud to stand here today and report that the committee was on time and on target. We approved the President's plan, with some modifications, to ensure that those taxpayers with the ability to pay fulfill their responsibilities and that program cuts are fair and protect the needy.

Some claim this bill includes the biggest net tax increase ever. The are wrong. The tax bill that Ronald Reagan signed in 1982, measured in 1993 dollars, was over $50 billion bigger.

What we do face, however, is the biggest deficit in history—three times as large as it was in 1982. It is not a small problem, and it will not be cured by small talk and political posturing. It demands a vigorous yet fair response. This bill provides that response.

I want to be clear—this bill requires sacrifice. But the sacrifice is small compared to the price of continuing on our present course, risking our fiscal integrity and the standard of living for ourselves, our children, and our grandchildren.

THE REVENUE INCREASES IN THE LEGISLATION ARE FOCUSED ON UPPER-INCOME TAXPAYERS

About two-thirds of the revenues in the legislation will come from persons making over $200,000. And even for these persons, the increases are modest. The bill creates a new 36-percent bracket for married couples with taxable income over $140,000 and a 10-percent surtax on incomes over $250,000. These new rates are still well below the top rates that had been in effect prior to tax reform in 1986.

Business, as well as individuals, are required to contribute to deficit reduction. The bill provides for a 1-percent increase in the corporate tax rate for taxable income over $10 million—a prudent increase, large enough to be meaningful but not so large as to be disruptive to economic recovery, competitiveness and job development.

THE BROAD-BASED ENERGY TAX IS A POWERFUL ENGINE FOR DEFICIT REDUCTION

It raises over $70 billion over the budget period. But it also serves other goals. It is fair to taxpayers in all regions of the country. It encourages use of clean fuels and renewable, and it encourages conservation.

But the impact on U.S. households is modest—an average of about 17 dollars a month, counting all direct and indirect costs, beginning in July, 1996, when the tax is fully phased in. To ensure that this burden does not fall on those least able to pay, low-income families will benefit from increases in the earned income tax credit, and other programs.

The Committee on Ways and Means, working closely with the administration, has attempted to ensure that no one is unduly burdened by the energy tax.

Under the bill as modified in committee, a partial exemption for hearing oil cushions the effects of the tax on regions of the country that rely extensively on heating oil. Similarly, a partial exemption for on-farm diesel and gasoline use protects farmers who consume large amounts of energy in farm operations. Adjustments are also made for industries that use energy as feedstocks, such as the fertilizer and aluminum industries, to ensure that they are not unfairly taxed. A border adjustment for imports of energy-intensive products ensures that domestic manufacturers are not placed at a competitive disadvantage in our domestic markets.

THE BILL CREATES WORK INCENTIVES AND JOBS

Under this bill, through expansion and simplification of the earned income tax credit, no American family with a full-time worker need live below the poverty line.

Furthermore, the bill promotes opportunities for jobs and enhanced skills by permanently extending the targeted jobs tax credit and expanding it to include a new school-to-work program. The employer-provided educational assistance program would be extended permanently.

Also included is a $5.3 billion investment in enterprise and empowerment zones designed to help rebuild America's distressed cities and rural areas.

In addition, the bill increases opportunities to find affordable housing by permanently extending the low-income housing tax credit and enhancing its availability in the 110 empowerment zones and enterprise communities that will be designated under this legislation.

THIS BILL CREATES JOBS FOR AMERICAN BUSINESS

To free up cash-flow for small businesses, the bill allows immediate expensing of $25,000 in depreciable assets—well above the current $10,000 limit.

In addition, the legislation provides small businesses with greater access to tax-exempt financing and provides incentives for people to invest in specialized small business companies, to make it easier for these companies to attract much-needed equity capital.

The bill also provides needed assistance to the real estate industry by providing relief from the passive loss rules for business men and women who materially participate in real estate businesses. It provides a boost to local real estate markets by providing tax relief for the restructuring of business debt secured by real property. To encourage the construction of additional housing for low-income families, the bill extends the low-income housing credit and mortgage revenue bonds program permanently.

The bill extends the 25-percent deduction for health insurance premiums paid by self-employed business men and women.

THE BILL WILL HELP US COMPETE IN THE GLOBAL MARKET

It extends permanently the research and development credit and ends years of uncertainty by providing a permanent 50-percent research and development allocation rule for U.S. multinational companies. These changes will enhance incentives for domestic companies that conduct long-range research and development in this country.

The bill also encourages U.S.-controlled foreign corporations to repatriate amounts that are earned abroad and that are not re-invested in an active business. However, in response to concerns about harming U.S. competitiveness abroad, the Ways and Means Committee agreed not to include the administration's proposal to increase taxes on royalty income earned abroad by U.S. companies.

Foreign persons doing business in the United States are also required to pay their fair share of tax, through changes in transfer pricing rules and changes in the so-called earnings stripping rules.

It also extends the generalized system of preferences. Known as "GSP," these tariff suspensions for non-sensitive imports foster economic development and overseas markets for U.S. exports to developing countries. They also provide leverage to reduce barriers and enhance protection of intellectual property rights in those countries, and they lower input costs for U.S. manufacturing. A 3-year extension of the Trade Adjustment Assistance Program for workers is also included to insure continued retraining and income support for workers dislocated by foreign competition.

The bill extends, as well, the "fast-track" negotiating authority or the Uruguay round of multilateral trade negotiations. President Clinton has indicated that, assuming he is granted this authority, he will bring these negotiations to a close by the end of this year on terms favorable to the United States. A conclusion of the Uruguay round should provide a much-needed boost to world economic growth.

The bill also includes a 3-year extension of the authority to impose customs user fees to offset the costs of U.S. Customs Services, and 2-year authorizations of appropriations for the U.S. Customs Service, the Office of the U.S. Trade Representative, and the U.S. International Trade Commission.

THE BILL ALSO PROVIDES NEEDED BROAD-BASED TAX INCENTIVES THAT HAVE CONSENSUS SUPPORT IN THE HOUSE

The bill promotes capital investment by providing more generous depreciation schedules for companies subject to the alternative minimum tax.

The legislation repeals the luxury tax on boats, airplanes, jewelry, and furs, and indexes for inflation the $30,000 threshold for cars.

The bill encourages gifts of appreciated property to universities, museums, and charities by reinstating the minimum tax benefits for gifts of tangible personal property and expanding it to cover other types of property.

This bill delivers on the President's commitment to meet basic needs while controlling spending.

It authorizes $1.5 billion in spending on family preservation programs that can help families avoid foster care, and it creates a $2.1 billion trust fund to finance childhood immunizations for Medicaid-eligible children and those without health insurance coverage for immunizations.

We take steps to control Medicare costs, by approving interim controls on reimbursements, pending the passage of health care reform. Together, the Medicare reductions total $50.4 billion over 5 years.

The bill would extend several expiring programs that provide assistance to rural and inner-city hospitals. These include continuation of special payments for small, rural Medicare-dependent hospitals and regional referral centers through fiscal year 1994. Authorization for the Essential Access Community Hospital Program and the Rural Health Transition Grant Program would also be extended. In addition, the separate Medicare reimbursement for the reading of electrocardiograms would be restored.

The bill would also extend the current physician ownership and referral prohibition beyond public health programs and to additional services and payers. The exceptions in current law to the general ban on referrals would be continued with a series of modifications.

In addition, the bill contains a 2-year extension of the existing 0.2 percentage point Federal unemployment surtax. This surtax was first passed in 1976. It has been extended three times, in 1987, 1990, and 1991. The administration asked for this extension as part of the President's additional proposals to help the committee meet its deficit reduction target and to help refinance the extended benefits program. With this extension, the extended benefits program is projected to be nearly fully funded by the end of 1998.

Mr. Chairman, I would also like to make technical comments on two provisions of the bill:

First, in permanently extending the research credit, the Committee on Ways and Means affirmed congressional intent that neither the enacting of the credit in 1981 nor the targeting modifications to the credit in 1986 affected the definition of "research or experimental expenditures" for purposes of section 174. The reasons for passing H.R. 1137 in 1954 were to provide certainty with respect to the tax treatment of R&D expenditures and to encourage taxpayers to carry on research and experimentation. Those reasons for enacting section 174 are even more important today given the increasing global market competition our industries now face.

Toward this end, the newly proposed Treasury regulations under section 174 contain modifications to clarify the broad scope of the section by pointing out that research and experimental expenditures are the costs related to activities intended to obtain data needed to eliminate uncertainty concerning the development or improvement of a product. I believe this action underscores and clarifies that it is Congress' intent that expenditures for the applied engineering required to develop a commercially feasible product and create U.S. jobs are deductible under code section 174.

Second, the bill provides an exemption for the feedstock portion of electricity used in electrolytic processes. Electrolytic processes are used to produce aluminum, chlor-alkali products, copper, magnesium, sodium, zinc, and other products. This exemption only covers the portion of electrical energy incorporated into the manufactured product. For example, in the case of aluminum smelting, it is my understanding that approximately half of the direct current electricity provided as an input to the electrolytic cell is incorporated in aluminum. I understand that approximately 70 percent of the direct current electricity is incorporated in the chlorine, caustic soda and hydrogen produced in the electrolytic process. It is also my understanding that the Secretary of the Treasury may determine a different percentage to be appropriate based upon review of the processes involved.

Mr. Chairman, this is the first reconciliation bill I have processed through my committee under a Democratic President. It wasn't easy—writing legislation to raise taxes and cut spending never is.

Mr. Chairman, I say to my colleagues that the President's revenue package calls for vigorous deficit reduction, but it is fairly apportioned among taxpayers in our society who have the ability to pay. There is no credible alternative.

We have but one choice—to lead. Our constituents, our country and the President rightfully expect us to place the good of the country first—I urge my colleagues to support the President and to vote for this bill.

If we cannot govern, if we do not have the strength to vote for positive, significant change, then we do not deserve to represent our great Nation.

Mr. Chairman, I firmly believe that this bill is necessary to begin to set straight our economic house. My belief has been reinforced by the reaction of hundreds of business leaders and associations from across the land who support this package before us today.

Many of them will pay increased taxes under the bill. They do not support this bill as a result of altruism; rather they know that their economic well-being, and that of the Nation, depends on our efforts to reduce the Federal budget deficit.

Mr. Speaker, I would like to include in the RECORD a small sampling of the many letters of support I have received in favor of this bill.

MAY 25, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: The undersigned companies commend you and your Committee for recent actions which improve the tax provisions of the reconciliation bill. We expect better economic results and better employment prospects to follow from the reported bill. We support the tax bill as restructed and reported by the Committee.

AFLAC Incorporated, AlliedSignal Inc., Ameritech Corp., Anheuser-Busch Companies, Inc., Associated Financial Corp.

Avon Products, Inc., Beneficial Corporation, B. P. America, Colgate-Palmolive Company, Delta Air Lines, Inc.

Dow Corning Corporation, Electronic Data Systems, Emerson Electric Co., The GAP, Inc., GenCorp Inc.

General Electric Company, General Mills, Inc., General Motors Corporation, General Signal Corporation, Hallmark Cards, Inc.

Honeywell Inc., Hughes Aircraft Company, IBM, Jim Walter Corporation, Kellogg Company.

Levi Strauss & Co., 3M, Marriott Corporation, Mars Inc., Mercantile Stores Co., Inc.

Owens-Corning Fiberglas Corporation, Philip Morris Companies, Inc., PLY GEM Industries, Inc., Premark International, Inc., The Procter & Gamble Company.

Puget Power Corp., The Quaker Oats Company, Ryder System, Inc., Sara Lee Corporation, Service Merchandise Co., Inc.

Southern California Edison Co., Southern California Gas Co., Southland Corp., Southwest Airlines Co., Tektronix, Inc.

Tenneco Inc., Time Warner, Inc., Valero Energy Corporation, The Walt Disney Company, Westinghouse Electric Corporation.

WHAT CORPORATE EXECUTIVES ARE SAYING

"The Ways and Means Committee significantly improved the corporate provisions of the President's tax proposal, and we, therefore strongly support H.R. 2141, the bill reported by the Committee. Although business will pay several billion dollars more under H.R. 2141, the tax structure is far better than the original proposal for investment and job creation."—E.L. Artz, Chairman of the Board and Chief Executive Officer, The Proctor & Gamble Company.

"By eliminating the investment tax credit and reducing the proposed corporate rate, the Ways and Means Committee substantially improved the corporate tax provisions in the reported bill. Their actions keep those provisions much closer to the bedrock principles of tax reform—the broadest possible base with the lowest possible rates—than did the original proposal and, therefore, we support H.R. 2141."—Bruce Atwater, Chairman of the Board and Chief Executive Officer, General Mills, Inc.

"The tax bill, as modified by the Ways and Means Committee, improves the prospects for better economic growth and inter-

national competition."—Warren L. Batts, Chairman of the Board and Chief Executive Officer, Premark International, Inc.

"I strongly support passage of the House budget reconciliation bill. The defeat of the package would mean chaos in the financial markets and would lead to an increase in interest rates. This, in turn, would slow economic growth and job creation."—Clark Matthews, President and Chief Executive Officer, Southland Corp.

"The tax elements which were recently reported by the House Ways and Means Committee and supported by President Clinton represent a reasonable balance between the need to increase revenues, stimulate investment, and ensure the fairness of the tax system.—Michael Walsh, Chairman and Chief Executive Officer, Tenneco Inc.

"To create jobs and growth, the U.S. tax system should have the lowest possible uniform rates and no special preferences. By eliminating the investment tax credit and mitigating the increase in corporate rates, the Ways and Means Committee tax bill moves us in that direction and is worthy of support. However, we also believe that meaningful deficit reduction cannot be achieved without real spending cuts."—John F. Welch, Jr., Chairman and Chief Executive Officer, General Electric Co.

MAY 25, 1993.

House of Representatives, Washington, DC.

DEAR CHAIRMAN ROSTENKOWSKI: The undersigned 90 groups and the millions of Americans they represent support the President's plan as reflected in the budget reconciliation.

We support President Clinton's objectives of creating new jobs, encouraging growth and investment and reducing the deficit. We believe this package is a requisite first step in achieving our mutual goals and objectives.

We urge you to support the budget reconciliation and to vote in favor of its passage.

Sincerely yours,

AFSCME.
AIDS Action Council.
American Agricultural Movement.
American Association of Museums.
American Council on Education.
American Education Association.
American Federation of Government Employees.
American Federation of Teachers.
American Insurance Association.
American Planning Association.
American Resort Development Association.
American Seniors Housing Association.
Americans for Democratic Action.
Association of Local Housing Finance Agencies.
Bread for the World.
Brotherhood of Maintenance of Way Employes.
Center for Community Change.
Child Welfare League of America.
Coalition on Human Needs.
Coalition to Preserve the Low Income Housing Tax Credit.
College and University Personnel Association.
Communications Workers of America.
Consumer Federation of America.
Council for a Livable World.
Council for Rural Housing and Development.
Council on Research and Technology (CORETECH).
Defenders of Wildlife.
Direct Selling Association.
Environmental Action.
Environmental and Energy Study Institute.
Families USA.
Friends of the Earth.
Human Rights Campaign Fund.
Institute for Responsible Housing Preservation.
International Ladies' Garment Workers Union.
International Union of Electronic, Electrical and Furniture Workers, IUE-AFL-CIO.
Jim Walter Corporation.
League of Conservation Voters.
Manufactured Housing Institute.
National Apartment Association.
National Assisted Housing Management Association.
National Association of Childrens' Hospitals and Related Institutions.
National Association of College and University Business Officers.
National Association of Community Health Centers.
National Association of Home Builders.
National Association of Homes & Services for Children.
National Association of Independent Colleges and Universities.
National Association of Life Underwriters.
National Association of Real Estate Investment Trusts.
National Association of REALTORS.
National Association of Retail Druggists.
National Association of Social Workers.
National Association of Targeted Jobs Companies, NATCO.
National Audubon Society.
National Coalition for the Homeless.
National Consumers League.
National Council of La Raza.
National Council of Senior Citizens.
National Council of State Housing Agencies.
National Council on Independent Living.
National Education Association.
National Employment Opportunities Network, NEON.
National Housing and Rehabilitation Association.
National Housing Conference.
National Leased Housing Association.
National Marine Manufacturers Association.
National Multi Housing Council.
National Neighborhood Coalition.
National Realty Committee.
National Urban League.
National Wildlife Federation.
National Women's Law Center.
Natural Resources Defense Council.
NETWORK: A National Catholic Social Justice Lobby.
NHP, Inc.
NRG Bariers/Saco Maine.
Nuclear Information and Resource Service.
Office of Management and Budget Watch.
Parent Action.
Peace Action.
Physicians for Social Responsibility.
Ryder Systems, Inc.
Truck Renting and Leasing Association.
United Auto Workers.
United Methodist Church, General Board of Church and Society.
United Transportation Union.
Valero Energy.
Women Strike for Peace.
Woman's Action for New Direction.
YWCA of the USA.

SALOMON, INC.,
New York, NY, May 25, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman on Ways and Means, Washington, DC.

Dear MR. CHAIRMAN: As one of the original corporate Chief Executives who endorsed the President's economic program, I want to commend you and your committee for recent actions which improve the tax provisions of the Reconciliation Bill. With the reduction of the deficit accompanied by the decline in long-term interest rates, we anticipate better long-term economic results to follow from the passage of the reported legislation.

I support the efforts of the President to achieve deficit reduction and the efforts you and the other members of your committee made to perfect this important legislation. I am taking the liberty of enclosing a copy of the op-ed piece I wrote in support of the President's program.

Sincerely,

ROBERT E. DENHAM,
Chairman and CEO.

HUMAN CAPITAL INVESTMENT IN THE PRESIDENT'S ECONOMIC PACKAGE: DANCING WITH THE ONE WHO BRUNG YOU

(By Robert E. Denham, Chairman and Chief Executive Officer, Salomon Inc.)

The deficit-reducing impact of President Clinton's economic package, and the bond market's resulting display of confidence, have received abundant attention from financial commentators. In the long run, however, the most important economic impact of the package may be its shifting of funds toward production-enchancing human capital investments and away from military spending and other production-consuming activities.

Anyone who hires significant numbers of employees in skilled positions knows that many Americans are ill-prepared for the increasingly complex jobs that are being created. Meanwhile, layoffs occurring principally in less-skilled jobs or in jobs requiring obsolete skills are creating a growing pool of the hard-to-employ. In Salomon's businesses, which include securities and commodities trading, investment banking and oil refining, we have seen a steady migration toward jobs that demand increasingly complex skill sets. On our trading floors we need people with advanced math and economics degrees, not high school graduates who develop a "feel" for the markets. In administration and finance, we need advanced computing, accounting and mathematical analysis skills, not bookkeepers.

The same story, in different words, could be told by company after company across the United States, yet educational institutions and company training programs have responded slowly and ineffectively to the higher standards required by today's jobs. A recent study of illiteracy among young American adults found 38.5% unable to read at an 11th grade level and 20.2% unable to read at an eighth grade level. Schools have often been so swamped by the social needs of children growing up underfed, ill-housed and in the midst of drugs and violence that they have been unable to respond to their need for an increasingly complex education. Corporations have generally not taken on the responsibility for basic skills training, preferring to invest in more advanced and job-specific training for people who already have substantial basic skills. The realities of a cold war economy created a paradox that was becoming a trap: defense expenditures impaired our ability to afford human capital investments, while the failure to make these investments impaired our long-term security. Increasingly, we are living off the diminishing returns from past waves of human capital investments.

President Clinton's economic plan carries out a dramatic shift from expenditure to in-

vestment, particularly in the critical area of human capital. The human capital investment increases over four years include $8 billion for Head Start, $2.6 billion for the women, infants and children program, $7.4 billion for a national service program that will fund college education, $4.6 billion for work re-employment and training assistance, and $1.2 billion for apprenticeship programs. At the same time he proposes dramatic decreases in defense spending and other decreases in non-productive expenditures such as agricultural subsidies. Besides accomplishing the deficit reduction for which the President's program has been justly praised, these changes also make a meaningful start on the investments in human beings that are essential for our long-term economic security.

President Clinton has recognized that with the end of the Cold War it is possible to replace government programs driven by fear with programs that are inspired by hope. Governor Clinton became President Clinton by enunciating a vision of an America that demonstrates belief in its future by willingness to invest in that future today. During the remaining years of his Presidency there will be many events to distract him from this vision. As a guide to making the necessary choices about priorities, he needs only to remember the old country adage: "Dance with the one who brung you."

SMALL BUSINESS
LEGISLATIVE COUNCIL,
Washington, DC, May 27, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On the day of this critical vote, I wish to again affirm the significance of the increase in the direct expensing provision from $10,000 to $25,000 for small business. We want to commend you and the President for championing this important revision.

As you know, the investment tax credit in the original proposal did not live up to the expectations of the small business community. Because of the many limitations imposed upon it, its effective rate was far lower than the publicized nominal rate.

The direct expensing increase from $10,000 to $25,000 is a clean, simple alternative. Many small businesses wanted it. (The small business delegates to both the 1980 and 1986 White House Conferences on Small Business made it a high priority.) Many small businesses can use it. We know some 11 million businesses took a depreciation deduction based on the last available data. Most of those businesses will be candidates for taking advantage of the $25,000 first year write-off.

We were pleased to to work with you in 1981 when you first introduced the concept of direct expending, and we are pleased to be allied with you and the President in making this dramatic improvement to the budget reconciliation bill. The President must be given credit for recognizing the need to strengthen the bill's value to small business.

I must note we are heartened by reports that the House may take further steps to rein in federal spending, particularly in entitlement programs. It surely is no secret that small business will take every dollar of spending cuts that can be wrung out of federal entitlement programs.

In the months ahead, we look for small businesses, as they lead the nation to economic recovery, to avail themselves of the full $25,000 direct expensing deduction. It would certainly be a good sign for the economy.

Sincerely,

JOHN S. SATAGAJ,
President.

AMERITECH,
Chicago, IL, May 5, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR DAN: It is my understanding that the Committee on Ways and Means will soon be addressing budget reconciliation legislation. On behalf of Ameritech, I want to applaud and encourage your efforts to achieve meaningful deficit reduction.

As a capital intensive company with a very large Federal income tax liability, Ameritech would have preferred to see capital incentive proposals, such as an Investment Tax Credit, that could achieve the goal of genuine capital formation and job creation for business. Unfortunately, the Investment Tax Credit as proposed would not help Ameritech and most large employers reach this goal. We are realistic enough to understand that a more meaningful capital incentive package is not doable at this time given the primary goal of deficit reduction.

We strongly encourage your efforts to minimize any increase in the federal corporate tax rate through the elimination of the proposed Investment Tax Credit. We look forward to working with you and other Members of Congress in passing a pro-growth reconciliation bill that will result in real deficit reduction without burdening the business community with a large increase in the corporate rate.

Sincerely,

WILLIAM L. WEISS,
Chairman and CEO.

MARS, INC.,
Chicago, IL, May 6, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: The Tax Reform Act of 1986 made a fundamental change in this country's income tax policy. President Clinton's tax package threatens to reverse that change, and that would be a serious error. I urge you to lessen the adverse effects on the overall tax increase package by holding the line on the corporate tax rate and setting aside the proposed investment credit proposals.

For decades, high tax rates were imposed on businesses while a series of special rules enabled many industries to avoid those rates by making certain investment decisions. In that environment, far too many business decisions were based on tax planning rather than on economic and financial common sense.

It is doubtful that the combination of high rates plus offsetting investment credits and other preferences were ever very beneficial to the economy overall. But the President's package clearly offers little "stimulus" for business investment. A temporary credit of seven percent on incremental investments will not make any difference to my company's investment decisions.

But a two percentage point increase in the corporate tax rate will make a difference—an adverse difference. That is a permanent rate increase which will affect the return on our past and future investments for years to come, while the investment credit will be of use only with respect to a modest amount of our investments during the next two years.

I understand that the cost of the credit proposals is about equal to the higher revenues from the rate increase. Given the limited value of the credit and the ill effects from the rate increase, the tradeoff does not seem rational. Why not delete both from the package?

Your leadership role on the 1986 legislation was critical to its enactment. I understand that you are committed to the proposition that a low rate broad-based income tax is the best way to limit the effects of taxes on business decisions. I urge you to help retain that policy by setting aside both the rate increase and the investment credit provisions in the President's package.

Sincerely,

W.B. HELLEGAS,
President.

AMERITECH,
Chicago, IL, May 24, 1993.

Hon DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR DAN: We recently joined a group of companies in commending you and your Committee for recent actions which improve the tax provisions of the reconciliation bill. We expect better economic results and better employment prospects to follow from the reported bill. We support the tax bill as restructured and reported by the Committee on Ways and Means.

We believe that deficit reduction efforts are critical to a robust economy that will allow Ameritech and other companies to compete successfully at home and abroad. We continue to applaud your hard work to achieve real deficit reduction for the country.

Sincerely,

WILLIAM L. WEISS,
Chairman and CEO.

Mr. ARCHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in strong opposition to the bill.

The people of my district in Florida sent me here last fall to do three very important things: Cut spending, keep their taxes down, and promote an environment that will allow jobs to be created.

This bill will not do any of these.

The tax and spend package before us today will increase taxes on all Americans, it will delay any real spending cuts to some future date uncertain, and—worst of all—it will cost Americans their jobs.

According to the Tax Foundation, the Btu tax alone will send more than 1,000 of my constituents to the unemployment office. They will be joined there by nearly 20,000 other Floridians who will lose their jobs just so this Congress can increase the pool of money it can spend.

And let's be clear. When nearly half a million Americans lose their jobs due to this tax increase, it will not result in the kind of deficit reduction the other side claims. In the very first year of this plan, for every $20 in tax increases, there will be just $1 in spending cuts.

Mr. Chairman, the American people want us to cut spending first. Instead, they are now facing huge tax increases, many of which are retroactive to the first of this year. Mr. Clinton may very well be the first President who found a way to raise taxes on the American people even before his inauguration.

And who will pay those taxes? Everyone. Not just the rich. Under President Clinton's bill, a middle-income senior couple will see the taxes on their Social Security increase about $370.

Even more disturbing is the fact that this money will not go to the Social Security trust fund.

It is unfair to raise revenues on the backs of middle-class senior citizens and it is irresponsible to put that money in the general fund.

Finally, Mr. Chairman, as we debate the largest tax increase in American history I am reminded of a line I read that said, "If you tax everything that moves, things tend to stop moving," and that includes this economy.

I urge my colleagues to vote "no."

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I rise in support of the words of every Republican spoken today and to associate myself with the remarks of a fighting, commonsense Democrat, the gentleman from Ohio [Mr. TRAFICANT].

Mr. Chairman, with all the White House has been doing over the last couple of weeks, the American people are justified in asking, what in blazes is going on with the Clinton administration? And specifically, what is up with his budget? While the concern is real, the focus may be a little off. Indeed, many things are going up with the Clinton budget we are considering today, but the worst things about it are what things are going down. I want to bring my colleagues attention to both the ups and the downs of the so-called plan.

Needless to say, Mr. Chairman, spending is up. Despite OMB Director Leon Panetta's comments earlier this year that the administration's budget would contain $2 in spending for every $1 in new taxes, this reconciliation bill reverses this plan. It actually contains $6 in taxes and fees for every $1 in spending reductions—and it is a 20-to-1 ratio over the first 2 years. Call me a cynic, but that is more in line with what some of us expected.

Indeed, whether spending reductions will ever occur is open to question. But one thing is clear: The President and the majority Democrats in Congress are interested only in paying lip service to spending cuts. In its exhaustive search for domestic programs that don't work and are no longer needed, the administration came up with only 11 programs totaling less than $3 billion out of the $1.427 trillion in nondefense outlays in 1997. And of the $343 billion this bill contains in reconciled reductions, less than $70 billion is not arrived at by higher taxes. Overall, this budget adds nearly $38 billion in new or expanded entitlement programs, which have, after all, been the problem with this budget all along. While the administration has been forced into negotiating with Congress over entitlement caps, little has been said about the entitlement programs the budget creates. Even though half a dozen human resources provisions were cut by $1.2 billion over 5 years, incredibly, 20 other programs were expanded by $1.9 billion, creating a spending increase of $700 million. So what did the Ways and Means Committee do? Characteristically, it added new taxes, including extending the Federal unemployment tax [FUCA], which now enjoys permanent status as a temporary tax. Only in Washington.

The new immunization program is a good example of how the Democrats pass up opportunities to reform social services and simply resort to throwing dollars at problems. Despite evidence that Government-provided immunizations will have no impact on the immunization rate, the Democrats passed on a Republican plan to allow States to use rewards and punishments to encourage welfare recipients to immunize their children, thereby adding another $2 billion to the cost of this bill.

There is not even a pretense that the regressive energy tax portion of this tax bill will not be used for more spending. The White House has stated that the energy tax will help reduce the deficit and put the Government on a pay-as-you-go basis for needed public programs. That's more spending, folks. And it is interesting to see how the Democrats have tried to hide the tax's regressivity, by robbing one class of taxpayers to pay off another. This budget spends at least one-half of the $71.5 billion expected to be raised over 5 years on low-income families and individuals, including a $28 billion increase in the earned income tax credit [EITC], $7 billion in additional food stamp payments, and $1 billion for Low-Income Home Energy Assistance Program [LIHEAP] payments. This forces middle-income families—hardly our Nation's richest taxpayers—to pay an excessive share of the administration's revenue goal. And as the energy tax increases yearly, it is impossible for the middle class to know the size of the bag it is left holding. It truly is a stealth tax.

Which brings me to the next item that is up with the Clinton budget—taxes. All of this increased spending will require passage of the most massive tax hike in history. It calls for $332 billion in tax increases over the next 5 years, and adding the various hidden increases, the tax bite will grow even larger in later years. It creates a new individual income tax rate brackets at the 36 and 39.6 percent levels which reach even lower down the income scale than now. These new tax rates are supposed to raise $31 billion of the $39 billion in deficit reduction for 1994 under this plan. Gone, at least, from this reconciliation bill is all pretense of a millionaire surtax. The White House no longer pretends that it is anything more than another rate bracket, with millionaires defined now as those earning more than $250,000. And of course, this tax is retroactive to the beginning of 1993.

Even families with incomes under $20,000, contrary to the President's claims, will bear the burden every time they pay their heating bills, fill their gas tanks, or make a purchase of almost any kind. The Clinton energy tax alone will cost every American family $471 a year.

Individuals with adjusted gross incomes over $150,000 who pay estimated taxes must, under the Clinton budget, pay 110 percent of current year taxes as next year's estimated taxes to qualify for a safe harbor. So individuals with no increase in income or tax liability during that year are effectually giving the Government an interest-free loan. This is outrageous, but it is even worse for corporations. Even though this bill sets the maximum corporate tax rate at 35 percent, large corporations which pay estimated taxes must pay a full 100 percent estimation, rather than the 97 percent under current law. This reduces the margin of error in computing estimated taxes, and virtually assures the assessment of penalties. The administration hopes to gain $2.7 billion from this unfair, illusory deficit reduction provision which will only speed up the payment of corporate taxes by a few months, and make a cheap profit from hard-to-follow rules which are broken.

There is a hidden rate bracket increase in this reconciliation bill on small businesses and family farms, the biggest job creators throughout the 1980's. The bill would phaseout the permanent personal exemption, limiting itemized deductions, and removing the cap on wages subject to the health insurance tax. There is also a new maximum marginal tax rate of nearly 44 percent. As my colleagues know, the maximum marginal tax rate—currently almost 32 percent—represents the true incentive for entrepreneurs to earn extra money. So once a person pays the highest stated tax rate of 39.6 percent, adds in a Medicare tax for self-employed individuals of 2.9 percent, and tacks on an itemized deduction limit at about 1.2 percent, tell me what is the incentive for him or her to engage in the type of economic activity our economy needs? This new marginal rate is a 37 percent increase in the current rate. Before 1986, the rate was 50 percent. Goodbye tax reform.

So what else is up with the Clinton budget? How about Government regulations and bureaucratic redtape. What would the Carter II administration be without this? We should not be surprised, as we have come to see one of the most radical environmentalists in Congress elevated to second-in-command. But in case there was any doubt, this budget reconciliation is a validation of Mr. Clinton's commitment to big government.

Contrary to its own wishes, it will not be possible for the Clinton administration to reach the environmental goals of the Rio Earth Summit by the use of the new energy tax alone—though for some in the administration it is the first step. Still, the $71 billion energy tax is the largest regulatory intrusion by big government we have seen in a long time. In effect, administration of the energy tax has been unilaterally ceded to the U.S. Treasury Department, which will have complete and arbitrary control over its regulation.

The Treasury Department will have the power to not only change the tax rate on various energy products, but also to expand or contract the list of products subject to the tax in instances where such exemption is warranted. This is very wide authority. As well, even though the Internal Revenue Code would, under this bill, set forth the relevant Btu contents of specific fuels—ostensibly the measure of this energy tax—it also will permit the Treasury Secretary to override the statutory language by regulation. The Treasury Department could modify Btu contents enumerated by the statute if it determines they do not properly reflect the Btu content per unit, and it could also prescribe Btu content, and therefore the tax rate, for any energy product not prescribed. Thus, if the Treasury Secretary concludes that the tax statute rate is wrong, he or she could change it unilaterally, rather than by legislation.

But even outside of the energy tax, this reconciliation bill also extends wide regulatory latitude to the Treasury Department on other tax matters. For instance, the Secretary may reduce the types of investments that would normally qualify for capital gains treatment. The implications of this item under a Democrat regime hostile to capital gains are simply staggering.

The point, of course, is that the administration is overstepping its bounds. It is one thing for the executive branch to request regulatory discretion in an administrative matter. But the power the Clinton administration is asking for, Mr. Chairman, should only be entrusted to the people's representatives in Congress.

Increased interference by the Federal Government means more bureaucracy. The President's energy tax will require companies to establish new types of recordkeeping. It will also force the Federal Government to hire and train new agents, and both companies and Government will spend increased resources on enforcement and compliance.

The investment tax credit for small business contained in this bill requires nearly 19 pages of statutory language providing endless detail on gross receipts of the businesses to see if they are small and to list the kinds of property which qualify. All of this for a tax credit that will provide at most $8,000 in benefit to the largest qualifying business and far less for the average small business.

Capital gains is singled out for an enormous complexity penalty, again, at the sole discretion of the Treasury Secretary. Effectively, 75 years of settled tax law on the treatment of capital asset sales will be thrown out the window.

And there are numerous bureaucratic time bombs in this reconciliation bill, including retroactive tax rates and schedules. None of this will make our economy more competitive, or reduce our deficit. Not to mention the national debt—which is also up. The Clinton administration's own figures show that his spending and taxing plan will raise the national debt by over $1 trillion over 4 years. And the energy tax will simply allow the administration to spend more—regardless of any deficit reduction trust fund gimmick the President puts forward.

It stands to reason that if the President succeeds in his budget plans, inflation will also be up. A recent NFIB survey of more than 2,200 small firms reflected declining sales expectations, a flattened employment outlook, tighter credit conditions, and yes, inflation. The survey picked up hints that inflationary pressures could be on the rise among small firms hoping to take advantage of what little strength is in the economy to improve profit margins.

The energy tax in particular will raise the cost of practically all goods and services. The President's chairman of the Council of Economic Advisors recently testified that the energy tax alone could result in an overall inflation increase of 0.3 percent—a 10 percent increase in last year's rate. And recent data indicates that inflation is beginning to resurface. So shouldn't the administration be taking steps to prevent it rather than exacerbate it?

As inflation rises, another indicator of a return to the Carter presidency will go up too—unemployment. Rising energy costs will make American workers less productive and encourage the transfer of energy-intensive manufacturing overseas. It will kill jobs. My home State of California will rank No. 1 in job loss due to the energy tax, with 54,400 thrown out of work, almost 1,200 of them in my district alone. One study estimates that 600,000 jobs will be lost because of the energy tax alone.

So as we contemplate the ups and downs of the Clinton budget, it is fair to ask, what's going down?

Productivity. Many economists are increasingly pessimistic on the U.S. economy in light of the Clinton tax and health plan prospects. Indeed, why should Americans be more productive when the cost of being productive will increase by 35 percent or more? Some have estimated that the President's energy tax alone will lower economic growth by $35–50 billion each year. Many companies will face increased costs far in excess of the administration's 3–4 percent estimate for energy-intensive products. And even small increases will irreparably harm companies producing low-margin, price sensitive goods, particularly those that compete in foreign markets, and which will also not be able to pass along the costs. So as U.S.-manufactured products will bear the brunt of the energy tax, while foreign products will not, it is not surprising that the National Association of Manufacturers predicts that GDP will be $38 billion lower than it would without the Clinton plan. Add to this the new taxation of international operations, and it is clear that American businesses will be at a competitive disadvantage.

Investment and personal savings will also be on the decline if this reconciliation passes. In the above-mentioned NFIB survey, only one-third of small businesses tallied said they plan to make capital outlays in the next 6 months, although nearly two-thirds of those same firms spent money on their businesses in the previous quarter.

As for individuals, the future under Mr. Clinton's budget is just as bleak. Tax rates on investment earnings will definitely increase by 35 percent or more, slashing incentives to contribute to pensions for retirement. Many retirees will be subject to a 52 percent marginal tax rate on interest, dividends, and pension income. If a senior citizen is unlucky enough to be caught in the earnings limitation trap, their marginal tax rate could be over 90 percent. And an increase in the estate tax rate punishes lifetime savings even further. It seems that the President would make the Government the greatest beneficiary of an individual's lifetime work.

And the savings of seniors will not be all that are hit. The one benefit every senior American can, at least for now, count on receiving upon retirement is Social Security. Every person must pay in, but everyone receives benefits. And now, most seniors will pay taxes on those benefits.

The Clinton budget plans to extract $32 billion over 5 years from Social Security recipients in what is a near doubling of Social Security taxes. Under current law, single and disabled Social Security recipients with incomes over $25,000 a year, and married beneficiaries with incomes over $32,000 a year pay taxes on up to 50 percent of their benefits. This reconciliation bill will move that figure up to 85 percent.

What does this mean in real terms? The American Association of Retired Persons says that 6 million families will see a significant increase in their Social Security benefits being taxed, while another 1 million families will have their Social Security benefits taxed for the first time ever. The Congressional Budget Office estimates are more dire. They say that 23 percent of all Social Security recipients—10 million of them—will be affected in 1994 alone, while 30 percent, or 14 million will be hit by 1998. And the percentage goes higher every year after that. You will be astounded to see how big a problem this Social Security tax becomes.

And that is not all. Under this budget, the rules on requiring that benefit taxes be used to shore up the Social Security trust fund are abrogated. This should serve as a warning to those who think the administration is sincere about his deficit reduction trust fund. The plain truth is that this is revenue recovery. Indeed, the administration has been playing fast and loose with the facts on this tax all along. Mr. Clinton originally attempted to portray this tax as a spending reduction, arguing that it was because it was a cut in benefits. The administration now publicly acknowledges that it is a tax. Yet they still cannot bring themselves to include it among the budget's revenue proposals.

And what is the justification? The President says that Social Security benefits must be taxed more like regular pensions, meaning only 15 percent of the benefits escape taxation. But what he ignores is that many Social Security recipients are already taxed on their contributions when they are made and then again when the benefits are distributed. This is double taxation, pure and simple. So much for savings. In short, many retirees will see a bigger tax hike and a higher marginal tax rate than the so-called rich who make over $140,000. So much for socking it to the rich and leaving the rest of America alone.

All of this means, of course, that revenues will actually decrease under this plan, despite whatever the White House intends. Revenues, Mr. Chairman, are what the President is trying to collect. But the Clinton package restores all of the old incentives to seek tax shelters, which Congress did away with in 1986. And it won't be the poor who take advantage of those. Upper-income individuals will defer income, buy tax-free bonds or low-dividend stocks, take more tax-free fringe benefits than before, increase their home mortgage interest deductions, or simply work less. It's a vicious cycle, this taxing the economy out of productivity.

Economist Martin Feldstein explained this cycle very well in a recent Wall Street Journal editorial which I will submit for the RECORD following my remarks. The Clinton plan makes that same mistake tax and spend Democrats always make—it assumes people will go about their business as usual, no matter how the Government chooses to involve itself with their checkbooks. The raise in the marginal tax rate raise will produce little or no additional revenue, but it will weaken the economy and waste scarce investment dollars. A couple making $180,000 taxable could easily choose to cut their income by only 5 percent, and Treasury would actually collect less revenue

under the Clinton plan than today. If these people reduce their income by 10 percent, Feldstein concludes that virtually all of the President's projected revenues would disappear. No revenue equals no deficit reduction. Yet the spending, like the Energizer rabbit, just keeps going, and going, and going.

Mr. Chairman, as George Snydor of the National Association of Wholesaler-Distributors recently pointed out, there is no example in history of a country successfully taxing its way to job growth and prosperity. Prosperity comes from a productive workforce with a sustainable tax base to cover the necessary government functions. But a confiscatory tax policy will drive lower any incentive for increased productivity. Even the draconian bureaucratic control of the failed Soviet system couldn't confiscate enough of its own earnings to finance its monolithic spending needs. The President's package attacks the philosophical underpinnings of 1986 tax reform, returning us to days of loopholes, sheiters, and preferences. The resulting Tax Code could stifle any economic recovery, and make debt reduction a pipedream.

Let's look at the direct lending portion of this bill. While I believe we need to reform the current student loan system in order to produce savings and reach the neediest students, I strongly oppose the Clinton administration's proposal to replace the guaranteed student loan system with federally administered direct lending. It is an untested program that will not only result in disaster for students needing college loans, but it will also end up costing the Government more money, not less.

The Clinton administration's estimates of cost savings under direct lending are misleading. Indeed, the $4.3 billion in savings over 5 years claimed by OMB and CBO and included in the budget resolution will never materialize. Both the OMB and CBO analyses rely on budget gimmicks that ignore the significant costs of converting to a direct lending program. The Congressional Research Service has determined direct lending would actually cost an additional $200 million in the first 2 years.

Moreover, since when is the Federal Government, in particular the Department of Education, qualified to handle the administration of such a complex program? A recent study by the Congressional Research Service shows there are a number of administrative and financial risks associated with direct lending and that such a program is likely to increase budget outlays and reduce national income. The result? An increase in the deficit. The General Accounting Office agreed, finding that "the inventory of known problems in the [Education] Department's administration of guaranteed student loans raises questions about its ability to adequately manage a direct lending program." Even the Department's own inspector general has judged the Department incapable of administering this program.

With all this in mind, it is beyond me that Congress and the President would get the current loan system as well as the direct lending pilot program in order to put on the fast track such a dubious program that will further burden a Government whose excessive borrowing has left us with a $4 trillion debt.

At a time when we are supposed to be reducing the deficit, direct lending is a program that this country can ill-afford. Furthermore, the Federal Government is simply incapable of administering such a complex program without hurting students ability to receive loans. If Congress is to improve the current program of student loans, it should focus on reducing defaults, reducing lender subsidies, improving guarantee agency financial stability, and increasing guaranteed student loan accountability for all program recipients. By carrying out reforms in this manner, we will be able to run this program more efficiently so that needy students receive the financial assistance they deserve.

Finally, Mr. Chairman, it should occur to the President that his one unrecoupable loss is the public trust. This is already down. Way down. For weeks, we have been insulted by the arrogance with which this President has attempted to operate in a policy vacuum, taking on such pressing issues as incorporating homosexuals into our armed services and cutting the White House travel office. His public trust hasn't been helped by these fiascos, and now his budget plan is lowering it further.

Mr. Clinton promised the middle class a tax cut. Instead, he handed them a massive tax increase in the form of an energy tax. And this political maneuvering to sneak his energy tax barely past Congress doesn't play in Peoria. The American public will still be saddled with a huge tax increase, all across the board. And now, to regain their support, Mr. Clinton vaguely talks about a middle-class tax cut at a late date. We're supposed to trust him. Yeah, right.

His latest gimmick, intended as the sugar for the medicine, is the creation of a deficit reduction trust fund. Give me a break. Mr. Chairman, are there any naive Americans left over the age of 40 who still believe the creation of a trust fund guarantees funds designated for a particular purpose will be used for such? Ask any senior citizen how they think the Social Security trust fund has been handled.

And the administration knows this. CBO Director Robert Reischauer recently testified that the purpose is "to assure the public that the tax increases and spending cuts * * * would actually reduce the deficit." Good public relations. He also admitted, quite frankly I think, that claiming deficit reduction has occurred is very different from actually achieving any certain deficit targets. It is clear that Mr. Clinton's new deficit reduction trust fund proposal is really nothing more than a cheap accounting gimmick more capable of boosting the Clinton trust deficit rather than our Nation's deficit trust.

So there you have the ups and downs of the Clinton budget. And the question now becomes, what's going on here? As we meet to debate a budget reconciliation bill, Mr. Chairman, I can't help but notice that nothing in this bill can be reconciled with the promises Bill Clinton made during the campaign. I've heard the Democrats talk a lot about the need for bold, new ideas. But all I hear them offer is bold, old ideas. The Clinton administration is going the way of the last failed Democratic Presidency. Bill Clinton simply doesn't understand. As I said before, there are no examples of a country taxing itself into prosperity yet taxes are quickly becoming the defining feature of the Clinton administration. I urge my colleagues to vote against this truly disastrous budget reconciliation. Think of this as merely the first installment—just wait until health care reform.

And here, Mr. Chairman, follows the solid article by Prof. Martin Feldstein.

CLINTON'S PATH TO WIDER DEFICITS

(By Martin Feldstein)

As someone who has been urging deficit reduction for more than a decade, I was initially pleased by President Clinton's seeming emphasis on cutting the deficit and his call for tough medicine to achieve that goal. Unfortunately, careful analysis of his plan shows that it would not shrink the deficit's share of national income. The projected increases in spending on social programs would far outweigh the proposed changes that reduce spending or raise revenue, leaving the nation with a wider deficit four years from now.

Even under the optimistic calculations of the Clinton team, there is virtually no reduction of the relative deficit over the next four years. If every tax and spending change called for in the plan occurs and the economy returns to "full employment" in 1997, the Clinton calculations place the budget deficit at 2.7% of gross domestic product. Back in 1990, when the economy was last at full employment, the deficit (net of deposit insurance outlays) was 2.9% of GDP.

With a deficit of 2.7% of GDP, the government would be borrowing about half of the net savings generated by households, businesses, and state and local governments. The remaining savings would be too low to finance enough investment to keep up with the growth of the labor force. And the ratio of the national debt to GDP, now more than 50%, would still be rising.

FAR TOO OPTIMISTIC

Those gloomy figures are actually far too optimistic, because there is no possibility that the Clinton plan will produce the deficit reduction that it projects.

Consider first the tax increase that is the centerpiece of the deficit reduction plan. For 1994, the plan projects deficit reduction of $39 billion, $31 billion of which is supposed to come from raising the personal income tax rates on individuals with taxable incomes exceeding $140,000 and from adding a 2.9% Medicare payroll tax to all incomes exceeding $135,000.

The Clinton revenue estimates are based on the fallacious assumption that taxpayers will not change their behavior in response to a 37% jump in their marginal tax rates (from 31% today to the 42.5% that results from the new 36% rate plus the 10% surcharge and the 2.9% Medicare tax). In reality, taxpayers will find ways of converting taxable income into nontaxable income. Tax shelters and deferred compensation will become more prevalent, and some individuals, especially in two-earner households, will opt to work less.

If the higher marginal tax rate causes these taxpayers to reduce their taxable incomes by 10%, virtually all of the president's projected revenue gain would disappear. For a taxpayer with $400,000 of taxable income, the rate hike would produce $26,085 of additional revenue if there were no behavioral response. But if taxable income is reduced to $360,000, the additional revenue would be only $7,935.

The effects on Treasury revenue are even more startling for those with slightly lower incomes. At $180,000 of taxable income, the marginal tax rate would rise by 25%. Even a very small 5% reduction in taxable income

(to $171,000) for such individuals would mean a net reduction in total taxes paid: Although the Treasury would collect $2,594 of additional taxes on the income up to $171,000, it would lose $2,790 by not taxing the remaining $9,000 at the current 31% rate. The net effect would be a revenue loss of $196 instead of the projected revenue gain of $3,305. With a 10% reduction in taxable income (to $162,000), the higher rates would actually cost the Treasury $3,697 for a couple with $180,000 of current taxable income.

According to the Clinton plan document, half of all taxpayers with incomes over $140,000 have incomes under $180,000. Thus even a 5% reduction in taxable incomes in response to the 25% marginal tax rate increase would reduce the taxes paid by the majority of those who faced higher rates. It's all pain for them with no revenue gain to the Treasury and therefore no deficit reduction.

The second implausible feature of the plan is the assumption that Congress will cut real defense outlays by a massive 25% over the next four years. Defense outlays in the current fiscal year will be $294 billion, or 4.8% of GDP—down sharply from the 5.9% of GDP in 1989 before the fall of the Berlin Wall and the collapse of the Soviet Union. Maintaining the present real level would require $328 billion of defense outlays in 1997 even if inflation averages the very modest 2.8% a year projected by the Congressional Budget Office.

The Clinton plan's projected $249 billion in 1997 defense outlays is thus 25% below the amount needed to maintain today's real spending level and 33% below the amount needed to maintain our current 4.8% of GDP spending on defense. Mr. Clinton would reduce defense spending to 3.3% of GDP, lower than in any year since 1940 and less than a third of its share in 1959, when John F. Kennedy warned that we were spending too little on defense.

Although the Clinton defense outlays in 1997 are projected at $79 billion less than the $328 billion needed to maintain the current real level, the Clinton documents claim his "proposed policy changes" cut 1997 defense outlays by "only" $37 billion. This budgetary sleight of hand is achieved by reducing the "baseline" from which the Clinton defense cuts are calculated.

Instead of taking as a standard the level of 1997 spending needed to maintain today's real defense outlays, the Clinton budget assumes that the $22 billion of cuts agreed to in the Omnibus Budget Reconciliation Act and the additional $20 billion cuts subsequently proposed by President Bush have already been made. Subtracting these two cuts from the $328 billion gives President Clinton a 1997 "starting" point of $286 billion. His additional projected cuts of $37 billion result in projected defense outlays of $249 billion.

But playing games with the baseline doesn't change the results. At a time of increasing military uncertainty and conflict around the world and a new proliferation of nuclear arms and ballistic missiles, there is good reason to doubt Congress' willingness to accept such drastic cuts.

The third piece of implausible budgeting is the projected domestic spending cuts. By President Clinton's reckoning, nondefense spending in 1997 would be cut by $61 billion (before taking into account his plans for new spending of $55 billion on "investments and incentives"—a label that is divorced of all meaning by extending it to every type of social program and income redistribution). Just how likely is the $61 billion of projected spending cuts?

About half the "spending cuts" are really revenue increases. Raising the tax on Social Security benefits for retirees with more than $32,000 of income would raise $7 billion in 1997. A wide range of user fees would produce $9 billion. Higher Medicare premiums would yield $4 billion if Congress goes along. A variety of changes in hospital reimbursement rules for Medicare and Medicaid would shift $6 billion of costs from the government to private insurers and therefore eventually to wage earners. Add the $4 billion that the government hopes to save by betting that financial markets are wrong and shortening the maturity of the debt and you have a total of $30 billion of 1997 "spending cuts" achieved without a single dollar's worth of benefit cuts or activity reduction.

The Clinton team's extensive search for programs that "don't work or are no longer needed" came up with less than $3 billion out of the $1.427 trillion in nondefense outlays in 1997—0.25%. Much of the remaining $28 billion of projected "spending cuts" are the kinds of wishful-thinking numbers that traditionally help budgeteers project narrower deficits but don't actually produce any savings. In the language of the Clinton plan, there are 1997 savings of $3.3 billion from "streamlining government." $6 billion from unspecified "administrative efficiencies," and more than a billion dollars from better management of particular programs.

ADVICE IGNORED

It is unfortunate that President Clinton did not take the advice of his own budget officials, Leon Panetta and Alice Rivlin, when they called for a much broader framework for deficit reduction. The president's decision to avoid real cuts in nondefense spending and to adopt a counter-productive structure of higher tax rates leaves us with no credible reduction in the deficit. His plans to increase nondefense spending labeled "investments and incentives" by $160 billion over the next four years and by $55 billion in 1997 alone virtually ensures that the Clinton plan would produce a sizable increase in the share of national income absorbed by the budget deficit. What makes this particularly disturbing is that the president either does not understand this or is not leveling with the American people.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I want to address my remarks to my colleagues on the Democratic side of aisle.

I know this is a tough vote for some of you, a choice between voting your conscience or standing by your President. I have been there.

In 1986, I voted against my President, Ronald Reagan, on tax reform. And in 1990, I voted against my President, George Bush, on the budget agreement. I didn't enjoy doing that, but I'll tell you, those are two of the smartest votes I have cast here.

George Bush promised the voters he would not raise taxes, went back on his word, and lost. Many of you got elected last fall promising to come to Washington and cut spending first.

Do not make the mistake of believing that your constituents will let you break your commitment to them without cost.

This package contains the biggest tax increase in U.S. history, and the taxes are retroactive to the first of this year.

This package punishes the elderly who have saved and invested for retirement, and those who choose to keep working beyond age 65, by making 70 percent more of their Social Security benefits subject to tax. And, because the income thresholds for this tax are not indeed for inflation, the number of seniors subject to the tax could double in just a few years.

This package has Btu tax that will increase the cost of virtually everything produced in America, fueling inflation and destroying jobs.

Your constituents want you to cut spending first. This package raises taxes first and promises that someday, someday, we will make some cuts.

Your constituents want deficit reduction. But under this package, in 1997—despite $332 billion in new taxes—the deficit will be only $50 billion less than it is today.

My colleagues, this is not what you campaigned for back home. And you are kidding yourselves if you think your constituents do not know that.

Sometimes doing the right thing for the country means saying no to your President. It is not pleasant. It is not easy. But in this case, it is the right thing to do.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, today, I rise in support of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. Supporting this legislation is by no means easy for this Member. It includes many provisions which are not perfect and will require tremendous sacrifice on the part of my constituents, both rich, poor and middle class. But, in spite of all its challenges, this reconciliation package has been constructed fairly, with balance so that no one group is extraordinarily burdened.

Today, we must accomplish what the people of this country sent us here to do and that is to make difficult choices. Obviously, in a time of decreased resources, many of our decisions will result in some pain, but we must all pony up to the table for the good of the country and that is precisely what this bill accomplishes.

Much has been made of the unpopular taxes which are raised in this package, and certainly we are all called to some sacrifice, but the sacrifice requested occurs in a progressive way, with 75 percent of the burden falling on taxpayers making over $100,000 a year.

The authors of this bill have made a special point of ensuring that low-income workers receive some relief by expanding the earned income tax credit. In my city of Chicago, approximately 150,000 working families will benefit from the expansion of this credit. In many ways this measure will be the strongest antipoverty, prowork measure that we have passed in a long, long time.

Left out of the statements by critics of this bill are all of the important tax measures which

will not only stimulate the economy but will ensure that the average workers, as well as the poorest of, us are not unduly hurt. These include the following programs which will be permanently extended under this legislation:

First, the Low-Income Housing Tax Credit Program which has already increased the number of units of affordable housing around the country. In Chicago it has been responsible for nearly 6,200 units of low-income housing.

Second, the Mortgage Revenue Bond Program, which has been especially successful at granting the dream of home ownership to many middle-income families. In the past decade, the State of Illinois has made over 2,700 loans to first-time buyers in my city of Chicago through this program.

Third, the Targeted Jobs Credit Program which has proven to be good for business and is certainly good for the poor unskilled youth of our communities has been tremendously effective at getting youth into private sector jobs. It has been lauded by most companies which have used it and by the communities where it has been put into practice.

Fourth, the Small Issue Industrial Development Bonds Program which has been an important source of jobs by providing low-interest loans for industrial expansion and extension.

Permanently extending these four prudent, successful programs is not only good for business, it is clearly good for America. They help create jobs and thereby stimulate the economy.

This omnibus reconciliation bill includes other initiatives which should bear mention, including the empowerment zones proposal which will be extremely important to communities like Garfield Park, Lawndale, and Austin on Chicago's west side as we try to encourage economic development.

Of course this bill is not without its problems. I myself am concerned about several of the cuts in funding proposed in the Medicare and Medicaid Programs. A particular one that I hope we can resolve is the formula provided for payment to hospitals which have a disproportionate share of indigent patients. The provision currently included in the bill could have a profoundly negative affect on the Cook County Hospital system which provides health care to myriad of Chicagoans. As this measure proceeds along the legislative path, I would like to enlist the help of my colleagues in working to alleviate other possible problems.

Mr. Chairman we can all find plenty of small reasons not to support this bill. Sure it probably causes all of us reason for pause, but as the people charged with making the tough decisions on what is best for not only our individual constituencies, but of the Nation, we must take a broad view. This package requires that we all pony up to the table. The American people are counting on us. I urge my colleagues to do the right thing and vote for H.R. 2264, the Omnibus Reconciliation Act.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, I rise in strong support of this deficit reduction reconciliation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Chairman, I rise in strong support of the Budget Reconciliation Act and President Clinton's plan to reduce the deficit and promote economic growth and increased job opportunities.

This budget plan will reduce the Federal deficit by a record $496 billion over 5 years. Equally important, this legislation sets a new investment-oriented direction for Federal spending. This shift from consumption to investment is vital for the creation of new good paying jobs and an expanding economy.

House passage of the Clinton administration's budget plan is essential to show Wall Street and the American people that Congress is serious about stemming the flow of the red ink. No one likes raising taxes, but the deficit cannot be reduced without a balanced program of both new taxes and spending cuts. This fact is recognized by over 100 major U.S. companies, including General Motors, General Electric, IBM, Delta Airlines, and Westinghouse Electric. This plan is also supported by numerous organizations representing U.S. workers, including the AFL–CIO.

The House Budget Reconciliation Act provides for more than 100 specific cuts in Federal spending. Unnecessary programs are being eliminated, such as redundant commissions, special purpose HUD grants, and the current and outdated student loan program. Over $4.6 billion is saved solely by abolishing the old student loan program in favor of a direct student loan program.

President Clinton has stated plainly and honestly that tax increases must play a role in deficit reduction. He recognizes that $496 billion in deficit reduction over 5 years cannot be achieved fairly by asking only some to sacrifice through Federal spending cuts while those who benefited most economically from the policies of the 1980's sit on the sidelines.

The key point to remember is that President Clinton has insisted that tax fairness be the first priority during consideration of new taxes. The administration's recommended tax proposals place the heaviest burden on those who can most afford it—individuals who benefited from upper income tax cuts in the past decade. The Congressional Budget Office reports that 75 percent of the taxes raised under the administration's plan fall on the top 6.5 percent well-off families—those making over $100,000.

The Clinton administration has called for a Btu excise tax based on the heat content of energy sources. The Btu excise tax is a broad-based tax which has the added benefit of promoting energy conservation. Although a lot of attention has been focused on the Btu energy tax, its impact on middle-class and low-income families will be limited or nonexistent. The Btu energy tax will not be fully effective until 1996. In 1994, a family making $40,000 will pay only $1 a month more. In 1995, the same family would pay only $7 more a month, and then only $17 dollars a month when the tax is fully phased in.

Most middle-class families can expect any additional cost from the administration's tax proposals to be compensated for through lower interest rates which are at a 20-year low. A family who refinances their 10 percent $100,000 mortgage at 7.5 percent saves $175 a month or $2,100 a year. Lower interest rates also allow businesses to borrow money more easily for expanding their operations or hiring new employees.

Low-income families will be fully insulated from the Btu tax and other tax proposals through increased funding for programs like the earned income tax credit for poor working families and the Low-Income Home Energy Assistance Program. The expanded earned income tax credit will benefit working families with incomes below $28,000. In my own State of Pennsylvania, total earned income tax credit benefits will be increased by $240 million next year above the $363 million in EITC benefits received in Pennsylvania during 1992.

While attention is rightly focused on the record deficit reduction achieved under the Clinton administration's plan, it is vital that the economic growth benefits of this legislation not be forgotten. The Budget Reconciliation Act before the House provides targeted investment incentives for private business and shifts Federal spending toward programs that will strengthen the ability of our country to compete internationally.

This budget resolution provides an economic strategy that will put the average American first once again. Increased investment is intended to put an end to the stagnation in the real incomes of the average American family. This resolution also seeks to reverse the trend of increased poverty rates and greater inequality of income and wealth which arose during the 1980's.

The House Ways and Means Committee has reported budget reconciliation provisions which will promote public and private investment in the Nation's productive resources. This plan provides for an increase in the business equipment expensing allowance, an extended research and development tax credit, the targeted jobs tax credit, mortgage revenue bonds, and industrial development bonds.

A number of the Clinton administration's tax proposals are intended to promote small business growth in particular. A key example is a targeted capital gains tax break for long-term investment in a small business. President Clinton understands that small businesses are a key engine for economic growth and historically have been responsible for most new job creation.

Finally, I am pleased that the House Budget Reconciliation Act would extend permanently the Industrial Development Bond Program. On February 4, 1993, I introduced legislation to extend permanently the Industrial Development Bond Program which provides low-cost loans to small manufacturers planning to create new jobs, expand their facilities or build new plants.

IDB's are a proven program for creating jobs. Pennsylvania, for example, has used Industrial Development Bonds to create 8,975 new jobs and helped retain 17,724 jobs that might have otherwise been lost between 1987 and 1992. Nationwide, IDB's have created an estimated 182,000 new manufacturing jobs and facilitated the retention of 169,000 jobs through the financing of roughly 3,800 projects.

Mr. Chairman, I urge my colleagues to vote for this Budget Reconciliation Act and to support President Clinton's efforts to cut the Federal deficit. The overall impact of this deficit reduction and investment plan will be to make the U.S. economy stronger and provide more opportunities for American families. It deserves the support of the House.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, every generation that has come to this Congress has made a contribution to the power and wealth of America. This generation has been different. We have presided for a decade over the slow but steady decline in the power and wealth of this country. Either these massive debts and this eroding power were an aberration of an unfortunate decade, or they are permanent change in our ability to govern ourselves.

To reverse it it is said that we need courage, that it is difficult. Courage is not coming to this Congress and voting for what you know is right. Courage has been generations in this country that have fought, people that have sent their children to war, people who have paid high prices.

All you are asked to do is respond to the truth that every one of you know, truth that there is one plan before this Congress that will reduce debts that are consuming us, specific plans to reduce spending that is overwhelming us.

What you are asked to do is to respond as you said you were going to do, to keep a basic commitment, and that is to deal with a debt that is consuming this country every single day.

Mr. Chairman, that is the basic choice. I ask every Member of this House to put aside what you said you were going to do after the election. You said we were going to have one President; that the election had concluded and you were going to give him a chance.

This is that chance. Democrat and Republican alike, do what you know is right: Give Bill Clinton the chance to govern and prove that the eighties are over.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], a member of the committee.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to point out to the gentleman from New Jersey [Mr. TORRICELLI] that according to the Tax Foundation, the energy tax will kill 1,833 jobs in his district. I might say, Mr. Chairman, that it will cost us 1.069 jobs in my district, and those are 1,069 jobs that I cannot afford to lose.

The Clinton administration has promised us a budget that would cut $2 in spending for every dollar in new taxes. But what this House is voting on today is a budget that would raise over $3 in taxes for every dollar in spending cuts.

It is, practically every American has heard, the largest tax increase in American history, $332 billion in tax increases. The Clinton administration promised us a budget that would cut the deficit in half in 4 years and put us on a continuing path toward a balanced budget. But what the House is voting on today is a budget that would still leave incredibly overtaxed Americans with a $200 billion budget deficit in 1998, and a deficit, which according to estimates, will reverse the course and increase in years after that.

The Clinton administration promised us a budget that would not raise taxes on middle-class Americans. But what the House is voting on today is a budget that would slap Americans, rich and poor alike, with over $70 billion in new energy taxes alone, that would raise taxes on Social Security benefits on a senior who makes only just over $25,000 a year, and would slash legitimate business deductions for the small businessman struggling to make a living.

Mr. Chairman, I encountered a Member on the floor today from the other side of the aisle, a Democrat, who said he has only had one call today in favor of this tax and told him to vote in favor of this tax. I said to him, "That was your next opponent calling."

Mr. Chairman, please, let us defeat this tax, it is a bad bill, and let us work together to do some honest deficit cutting.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I am just curious, my dear friend the gentleman from Tennessee [Mr. SUNDQUIST], who is running for Governor, made a statement on the floor a while ago and said that senior citizens' taxes would be doubled. I just think the gentleman would certainly want to correct that, because nowhere in this legislation would senior citizens' taxes be doubled.

Would the gentleman agree to that?

Mr. SUNDQUIST. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Tennessee.

Mr. SUNDQUIST. Mr. Chairman, on the margin, they are. It is absolutely correct.

Mr. HEFNER. It goes from 50 percent to 80 percent counted income. That is the only place in this package.

Mr. SUNDQUIST. I stand by my remarks.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in support of the budget reconciliation and to talk about the Btu tax.

Raising taxes is never easy because every American, if asked, would say that he or she already pays his or her fair share. But as a nation, we have made a decision to cut the deficit and that means a package that includes taxes.

The President has presented an economic package that reduces the deficit and makes critical investments in the Nation's future. The President's plan contains approximately $500 billion in deficit reduction over 5 years including $250 billion in taxes, and $87 billion in entitlement cuts, and $102 billion in cuts in discretionary spending. The taxes and the entitlement cuts are contained in this bill while the discretionary cuts are automatic in that they translate into lower spending caps for the Appropriations Committee.

There are many things in this bill but as so often happens, the debate on this bill seems to have centered on the Btu tax. Remember where we were as a nation only a few short months ago. The Nation was anxiously awaiting President Clinton's economic plan. The President, I believe correctly, laid out a plan to the American people that called for deficit reduction and critical investments in our Nation's future.

I think one of the things that has been lost in this debate about the Btu tax is that the President and the administration looked at the alternatives and came up with the Btu tax because it was the fairest possible energy tax.

They looked at a carbon tax and discarded it because it would devastate the coal producing regions of our Nation.

They looked at a gasoline tax and discarded it because it would unduly burden those Americans who live in rural areas and must drive long distances. And to my colleagues who insist on pushing a gasoline tax as an alternative, let me remind you that the Ways and Means Committee reported a 5 cent a gallon gasoline tax a few years ago to pay for the highway bill and we could not pass it on the floor.

The administration looked at a tax on imported oil and thankfully rejected it because it would have devastated New England and my home State of Connecticut.

So the President did examine the alternatives. However, even the President would admit that the Btu tax was not perfect, so he worked with us in the Ways and Means Committee to improve it.

To make the tax fairer to those Americans who have no choice but to heat their homes, the President agreed to exempt heating oil from the supplemental tax.

To make the tax fairer to farmers, the President agreed to exempt farmers from the supplemental tax on oil.

To make sure that critical industries were not put at a competitive disadvantage, the President agreed to an energy border adjustment. This means that industries like steel won't be undercut by imports. The Btu tax will be collected at the border on these critical products. This makes the tax more fair.

And to make sure that American products can compete here and abroad, the President agreed to expanded feedstock exemptions. This means that where energy is used as a raw material as opposed to an energy source, such as in the production of plastics and petrochemicals, it is exempt from the tax.

The Btu tax, as reported by the Ways and Means Committee, is the fairest possible way to raise $71.5 billion for deficit reduction. So I would ask my colleagues who oppose the Btu tax, if not this, then what? We have already looked and rejected the other options. I would contend that it is better for all Americans to pay a small amount—$1 per month in 1994; $7 per month in 1995 and $17 per month in 1996—than to select one of the other options which would require some regions of the country to pay much more than this so another region could escape a tax. That would not be fair and it does not make much sense either.

So I would say to my colleagues that while it may be difficult to support the Btu tax, it is both fair and necessary. Support deficit reduction and pass reconciliation.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a member of the committee.

Mr. BUNNING. Mr. Chairman, I rise in opposition to this tax monstrosity.

This bill is a lot like President Clinton's hair cut—it is a lot more expensive than it looks,

This thing is a world record. It is the world's largest tax increase ever.

And yet, it does not reduce the deficit. Even the President's own figures admit that.

If everything in this bill works the way the President wants it to, we will still add over $1 trillion to the deficit over the next 5 years. That is if everything works.

But we know, going in, that it is not going to happen. We know that $322 billion in new taxes will slow the economy down. We know that people will lose their jobs because of this bill.

We know that the deficit will get worse—not better. Recessions always make the deficit worse. And this bill is a prescription for recession.

Calling this monstrosity a deficit reduction bill is like calling derby pie—a diet snack. It doesn't put the Federal Government on a diet at all. It just force feeds the Federal Government $300 billion more of taxpayers money.

It is a bad bill. It should be defeated.

I keep hearing my colleagues saying, "Bill Clinton won the election. He deserves a chance to put his program into effect."

That's garbage. Bill Clinton was elected on promises—promises to cut the deficit in half in 4 years. Promises to cut taxes for the middle class. Promises to enact the line-item veto.

This bill today is not what Bill Clinton promised the American people.

Yes, indeed, Bill Clinton deserves a chance. He deserves a chance to live up to his own promises. And when he does that, then, I will give his program a chance and vote that way.

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Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. Mr. Chairman, I rise in support of this strong Democratic bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, the previous speakers have indicated that President Clinton won because of his promises. I think it is abundantly clear that he won because people wanted a change. And they did not expect that people, because they are Republican or Democrat, would decide that their party affiliation was more important than what affected the Nation and that we have one President at a time.

No matter what anyone thought about the Reagan and Bush budgets, he depended on bipartisan support. And by God, he has got it.

Any time we can find that we have an issue before this Congress and every Republican, to the man and woman, has decided that they would rather gridlock than to give the President a fair chance, then it means that this is a terrible day in our Nation's history and a terrible day in this Congress.

Can we believe that just because a Member is a Republican that they do not want to help the working poor, that just because they are Republican that they do not want to have people have jobs?

No, I think what it amounts to is that they cannot tax the rich and refuse to ignore the oil barons.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 11½ minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 11 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, the adoption of this Reconciliation Act is critical to the economic future of our Nation. The American people understand the need for Federal deficit reduction and they want an end to the politics of denial that drove our prosperous Nation deeper and deeper into debt.

Mr. Chairman, there is no perfect solution; there are no easy answers. No matter how long committees deliberate, no matter how many speeches we hear today, perfect agreement on each and every provision in a reconciliation bill of this magnitude will elude us.

The debate today is not about getting everything we want—to protect the special interests of one group, one congressional district or one State. This debate is about courage and sacrifice.

We must have the courage to put the interests of America first. And we must accept the harsh reality that real deficit reduction will require real sacrifice.

But over the last few months, we have heard a distorted view of the sacrifices contained in this package. Let us set the record straight:

During the 1980's, when the wealthiest Americans saw their tax rates cut 20 percent, the middle class saw no tax relief at all. This deficit reduction plan restores fairness to the Tax Code.

Remember, 73 percent of all of the tax revenues will be paid by the top 5 percent of the highest income earners. Most Americans will experience no increase in their income tax rates. In fact, a family of three making $25,000 would see their taxes fall by several hundred dollars.

Those senior citizens who currently pay no taxes on their Social Security will still pay no taxes on those benefits. But even those that do pay will still pay less than the working family in their bracket.

The Btu tax contained in this package will be phased in over three years and will cost the average American family only $1 a month more in 1994, only $7 the year after and then only $17 a month when it is fully phased in.

And there has been little recognition that this reconciliation bill contains $75 billion in tax cuts, tax credits, and tax exemptions. These tax changes will lift working families out of poverty through an expanded earned income tax credit, boost small business expansion, and stimulate the real estate industry all hard hit by years of slow economic growth.

This reconciliation bill contains serious deficit reduction that will lower our Federal debt by a half a trillion dollars over 5 years. It mandates that:

Discretionary spending will be frozen at 1993 levels for 5 years; Federal spending will be cut $50 billion more than the President originally proposed; a trust fund will be established to insure that all revenues raised will go to reduce the deficit; and for the first time entitlement spending, the major cause of our budget shortfalls, will be capped.

The deficit cannot be eliminated by shielding the wealthy and the big oil companies from higher taxes and once again shifting the enormous burden of deficit reduction to the poor, the elderly and the middle class.

The American people need to know that there will be a substantial cost if we fail to pass this reconciliation bill. Failure to enact this deficit reduction bill, today, will increase the public debt by nearly $4,000 per American family over 5 years. Our obligation to reduce the deficit for the sake of future

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generations, for the sake of economic growth, will not disappear. In short, the rhetoric of just say no, just will not do.

It is time we face our obligation. We have seen what 12 years of ignoring the escalating Federal deficit has wrought. Last November, the American people voted for change. Let us make the choice for change. Let us give this President a chance to pursue his economic plan for this country, a plan of deficit reduction, investment, and fairness.

I urge my colleagues to vote in favor of the Budget Reconciliation Act.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I thank the gentleman from Texas for yielding time to me.

Mr. Chairman, I represent a rural district in Indiana, all or part of 20 counties. I urge my colleagues to say "no" to the Omnibus Budget Reconciliation Act of 1993.

This proposal is merely a shift in spending priorities to redistribute the wealth while including a tax increase disguised as a reduction in Government spending. We cannot continue this reckless fiscal policy. In my view we must limit Government spending to control the deficit before we consider raising taxes. This budget proposal is the largest tax increase in history that includes energy taxes and new taxes on Social Security.

The Btu tax sets out to raise $71 billion in additional revenue for new spending. There is no need for this erroneous new tax. In fact, I can identify four items that could be cut to produce the same amount of revenue. Phase out funding for the National Endowment for the Arts—$5.2 billion; privatize the Tennessee Valley Authority—$2.8 billion; freeze the annual growth and overhead of executive agencies of the Government beginning with fiscal year 1995—$36.8 billion; eliminate the proposed budget's increase in the earned income tax credit $28.3 billion, which is included only to counter the negative effects of the Btu tax; and eliminate the proposed budget increase in food stamps by $7.3 billion. Total budget savings of $80.4 billion. We do not need the energy tax as a source of revenue.

The energy tax is a regressive tax that would be devastating to our economy. It would hurt Indiana's economy by decreasing productivity, and decreasing the infusion of dollars in the local economy while increasing unemployment. The effects upon the business, manufacturing, and agriculture communities would be enormous and cause the economy in rural America, that is crawling on its knees, to fall flat on its face.

The energy tax would mean the loss of tens of thousands of jobs in rural Indiana and over a half million jobs in the country. This tax will reduce output, reduce employment, and reduce investment at a time when we need to adopt policies that encourage sustained and long-term economic growth.

Studies of my district alone show that the impact of the proposed energy tax on farmers with regard to corn, soybeans, and wheat using 1992 yields will cost over $12 million. Three counties in particular will be impacted over $1 million each.

As you well know farmers do not set the price of their commodity and must take what the market gives them. Farmers have no way to pass these expenses to the consumer like other industries do. A local farmer from Rensselaer, IN, who farms 1,200 acres of corn, soybeans, and wheat, projects the costs to him annually would be over $1,600 alone as well as another $600 in additional living expenses.

The reason we have a deficit problem is not because the American people are taxed too little, but that Government spends too much. It is not possible to tax a nation into prosperity, we must cut spending first.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise in support of the KASICH substitute to cut spending first.

Mr. Chairman, I rise today in strong support of the Kasich Republican plan.

The Republican plan cuts spending first—the Democrat plan taxes people first.

The Democrat plan imposes the largest tax increase in American history—$355 billion over 5 years. Tax increases represent 81 percent of the Democrat package, which will raise the national debt $1.5 trillion over the next 5 years—according to their own figures.

The Democrat plan will increase the deficit, destroy jobs, and stifle the economy just as it is struggling to recover.

The energy tax alone will cost 8,500 jobs in my home State of Minnesota, and almost 1,000 jobs in my Third District. As many as 610,000 jobs will be lost nationally because of the energy tax, according to the National Association of Manufacturers [NAM]. And the energy tax will cut gross domestic product [GDP] by at least $30 billion each year, according to the independent economic consulting firm DRI/McGraw-Hill.

In addition, Northwest Airlines and its 24,000 Minnesota jobs, will be put in serious jeopardy by the new energy tax.

The energy tax is a big hit on the middle class. The average family of four will see its energy bill go up by $425 a year, according to the nonpartisan Tax Foundation.

Middle-income families will be hit the hardest—just because the President and Congress refuse to cut spending.

Mr. Chairman, we need to cut spending first, and that is exactly what the Kasich Republican plan does. It reduces the budget deficit by $352 billion in spending cuts over the next 5 years—and without increasing taxes.

Congress must say no to the largest tax increase in American history and say no to the energy tax which will kill American jobs.

Congress must cut spending first. Say "yes" to the Kasich substitute.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I rise in strong opposition to this bill.

Mr. Chairman, I rise in strong opposition to H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. This so-called deficit reduction measure foists the largest tax increase in U.S. history on the American people and fails to eliminate even one Federal program. It is part of an economic plan which will see the national debt increase by $1 billion—from $4 to $5 billion—over the next 4 years. Why? because it ignores the real cause of the deficit: Too much spending.

I also rise in strong opposition to this measure for what it does to the veterans of this Nation. America's veterans have a deserved expectation that, in return for military service to their country, sufficient resources would be provided to ensure that the benefits they have earned can be delivered. Unfortunately, such resources are not being provided.

Federal spending on veterans' programs in inflation-adjusted dollars has not increased in more than a decade and its overall share of the Federal budget has been steadily decreasing. Spending in constant dollars for all Federal social programs has increased by 361 percent since 1965, while spending for veterans programs increased by only 36 percent. Since fiscal year 1988, discretionary spending on veterans' health care has been inadequate to maintain current services.

Over recent years of runaway Federal spending and budget crises, and despite chronic underfunding of veterans programs, veterans have expressed a willingness to participate in deficit reduction efforts. However, veterans have also stated the belief that they should not bear a disproportionate share of that burden.

Yet, it is veterans, including military retirees and active duty military personnel—the people most responsible for winning the cold war—who are bearing the brunt of the President's deficit reduction efforts. Veterans programs are being cut by $2.6 billion over 5 years in this reconciliation bill—despite chronic underfunding. Military retirees' COLA's are being reduced and delayed. And, military pay is frozen in fiscal year 1994 and future raises are limited. It is not unreasonable for these people to ask "Where's the peace dividend?"

If it is true that to the victor goes the spoils, then the victors of the cold war must be food stamp recipients who will get an extra $7 billion over 5 years, even though there has been no reform of the welfare system. It must also be the illegal immigrants who will receive health care paid for by the $300 million in new spending put in the bill. In fact, the President's budget proposes $180 billion in new spending over 5 years—virtually none of which benefits veterans. One thing is for sure, for veterans and the military, winning the cold war has been a hollow, costly victory.

This Nation has no greater obligation than to deliver on its commitments to its veterans. This reconciliation bill fails in meeting this obligation. I urge my colleagues to vote against this bill.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a member of the committee.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I have only one interest, jobs. The people in my district care only about jobs. They expect me not to vote as a Democrat or a Republican but on the basis of whether this bill will or will not create jobs.

This bill is a massive tax shift from the investing sector to the consuming sector. Through all the years I have sat on the Committee on Ways and Means, everyone has testified that we should encourage savings. We should encourage investing. And best of all, we should encourage long-term investing.

Yet this bill takes more money than we have ever taken at any one time from the very sector that creates jobs, that invests in America. Have we lost our senses?

In a period of prolonged economic weakness, why would we want to give to Government the very dollars that create jobs? Small business, the bone and marrow of job creating, is holding on by its fingertips in my State of Connecticut, and those very small businesses that are the job creators in America are going to pay more energy taxes, not once, not twice, but three times: once to the Federal Government, once to the State government, and once to offset the increase in the local property taxes, because those taxes are going to rise as we pay more to heat every school building throughout the cities and towns of our Nation.

And Medicare, every small business is going to pay higher Medicare taxes. Why? Because the majority would not even allow me to bring to the floor a bill that would have reduced Medicare expenditures responsibly. In the private sector, all but 5 percent belong to managed care plans. In Medicare, only 5 percent belong to managed care plans. And yet there was no support, not even the right to debate on the floor to bring that kind of cost-saving proposal to Medicare.

Instead, raise our taxes and particularly get those small businesses, because they are the job creators of America.

I am sorry that the two preceding speakers will lose 2,886 jobs as the result of the energy tax, and my district will lose 873.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the chairman of the committee for yielding time to me.

He, and the gentleman from Minnesota [Mr. SABO] and the President deserve a great deal of credit for giving us this opportunity today to vote for legislation, this Budget Reconciliation Act for jobs and for change.

Contrary to the suggestions of our Republican colleagues, this will be a job creation bill: 185,000 jobs will be created in our country. Over 28,000 of those in my State of California, and I know the gentleman from Illinois [Mr. CRANE], who was concerned about jobs, will be pleased to know that there will be over 10,000 new jobs created in Illinois; the gentleman from Florida [Mr. SHAW], who is concerned about jobs, over 10,000 jobs created in Florida.

These jobs will be created mostly because of deficit reduction, which will reduce the cost of capital to business, thereby allowing business to expand and create jobs.

It will also reduce the deficit by a quarter of a trillion dollars.

In closing, Mr. Chairman, may I ask that at this graduation season, let us give our graduates this present of jobs and of a brighter future.

Mr. ARCHER. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, what is the source of the gentlewoman's figures that she has just read from?

Ms. PELOSI. Mr. Chairman, I would be pleased to share the information with the gentleman.

Mr. ARCHER. Mr. Chairman, if the gentlewoman will continue to yield, will she share it with the House?

Ms. PELOSI. Mr. Chairman, the information is the information of the Treasury Department, and I will stand by the figures.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY], a member of the committee.

Mr. GRANDY. Mr. Chairman, according to the Tax Foundation, the energy tax will kill 2,364 jobs in the district of the Member who just spoke, and in my district, we will lose 880 jobs that we cannot afford.

But of course, this is rhetoric, and we will have none of this. Next we will be listening to the gentleman from Ohio [Mr. TRAFICANT].

What we should be doing is buttressing our diatribe with some detail or, as the gentleman from Michigan [Mr. LEVIN] said, also a member of the committee, "We should have the real stuff."

So here is some real stuff.

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The top rate is going to go to 36 percent in this bill, except if you are not just a rich person, if you are a small business, a sole proprietorship, someone who cannot go out and buy a lawyer to get under the rate. Then you will find that you will pay considerably more, and particularly if you make money.

If you make $250,000, in other words, a millionaire, you will pay another 10 percent, which will bring your rate to 39.6 percent. If you are self-employed, you double your Medicare taxes, which will go another 2.9 percent, and raise your rate to 42.5 percent.

Finally, the personal exemption phase-out and the Pease deduction formula left over from the last deficit reduction plan in 1990 effectively raise your rate to 44.5 percent. Remember, I am talking about people who cannot get under the rate, Mom and Pop, small businesses, sole proprietorships; in other words, the people the President was trying to empower when he stood in this well in his State of the Union address in January.

Do not forget, by the way, these folks cannot pay the corporate rate. No corporate break for them. G.E. will pay 35 percent. These people will pay 36 plus. Do not forget also when we talk about small businesses, Mr. Chairman, we are talking about earnings, held-over inventory, inventory that is not sold because the economy has gone sour. And that inventory you purchase for the Christmas sale which does not materialize are taxes to you.

In other words, if you are a dress shop owner and you prepare for a Christmas rush and buy $200,000 worth of clothing, and it is a lousy year because the tax bill has passed, and you have $120,000 in inventory still sitting on your shelves, after the holidays let us say you pay yourself a $20,000 salary, you only hit the 15 percent rate. Add to that the $120,000 of leftover inventory, you are paying a 36 percent rate. Unfortunately, you are not rich. The new tax bill just says you are.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, there is not a person in this country that does not understand that we have to seriously reduce the deficit, and by and large the political leadership in this country, both in the private and public sector, have been ignoring that responsibility.

However, we can and must do something about it today. We know that in this legislation one quarter of a trillion dollars in spending cuts will occur. Of the taxes that will be increased, 75 percent will be paid by the top 5 percent of the wealthy in this country, and most of those people will still pay less taxes than they did in the 1960's, when we had good, solid economic growth.

Today, what is at contention here is that energy tax that is being wildly distorted, as if it were going to break the backs of every family and every industry in this country. Baloney. The fact is, Ross Perot is going around this country advocating an energy tax that is more than twice as heavy on our industries and our families as what is in this bill today, twice as heavy.

Mr. Chairman, I strongly support this effort to curb excessive Government borrowing which is a drag on our economy, costs jobs and places an unfair burden on our children and their children. This package represents a monumental achievement, a $1½ trillion deficit reduction, the largest in history.

For the past 12 years, the President and Congress have grappled with reducing Government spending, have consistently fallen short of any kind of success. The truth is that we have been living off a credit card, and we have to stop. It is not an easy process. Anyone that says it should be easy is not telling it straight. We have to work together to imple-

ment this package, take the good with the bad, and actively participate in this effort to turn our economy around.

Any one of us would choose different ways to reach this goal. The reality is we have a viable package before us. The hard political reality is that not one of us would have written the plan as it is before us, but now is the time to put aside our differences on details to get the job done. The benefits of deficit reduction far outweigh the discomfort that elements of this package will cause us.

Lower interest rates that will result from a lower deficit will benefit everyone, from manufacturers, to farmers, to small business owners to families looking to buy new cars and homes. Since December 1992, interest rates in this country have dropped almost 1 percent. A farmer or small business owner with $100,000 in short-term debt who refinances a 10-year loan at this lower rate would save $576 a year. Someone looking to refinance a $50,000 mortgage on their home which is currently at 10 percent might refinance at 7.5 percent and save $89 a month.

This bill presented here today contains over 200 spending cuts that will result in $¼ trillion in deficit reduction over the next 5 years. It includes: $100 billion in savings from cuts in entitlement programs; a reduction in the Federal work force of 100,000 people; more than $13 billion in cuts in benefits and pay for Federal employees; essential provisions that will force additional actions to contain unanticipated growth in spending for entitlement programs.

The proposal also includes provisions to raise revenues and increase some taxes, the most controversial part of the package. While all Americans will be asked to pay a little more, the overwhelming majority of the revenue burden will fall on the most well-off. The Congressional Budget Office estimates that 75 percent of the revenue raised in the package will come from the wealthiest 5 percent of all Americans—the people who got the biggest tax breaks in the 1980's.

Taken as a whole, I am willing to vote for and defend this program as the largest step ever taken to reduce spending. And yet we must do more and make more spending cuts. Congress must commit to making additional spending cuts during the appropriations process.

One of the items that concerns me and other most directly is the Btu, or energy tax. The Btu tax is justified only as part of an overall package to reduce spending. It will affect all citizens. But adjustments have been made to cushion the impact for the most affected people, and more adjustments will be made in the Senate.

We have worked to make the Btu tax fair; many changes have been made to protect jobs and industries sensitive to international competition: It is a broad based tax that does not disadvantage any region or part of the country. North, South, East, and West all will pay less than 0.6 percent of their income for this tax; our trading partners, who are also our competitors, pay energy prices higher than U.S. industry, sometimes more than 100 percent higher; it does not, even with the oil supplement, unduly disadvantage or advantage any particular fuel. The energy production shares of various fuels and domestic energy production are projected to be virtually unchanged as a result of the tax; it will also help us use energy more efficiently and encourage us to help our environment as well. It is estimated that we will reduce oil imports by 400,000 barrels of oil per day by the year 2000—a savings of about $20 billion that will stay in our domestic economy; because the energy tax will be phased in over 3 years, we will have a chance to monitor the impact, and change course if necessary; and industries and households can even make inexpensive choices to reduce energy consumption, and thus reduce the effect of the tax.

Some of the most important changes in the energy tax were made to help farmers and energy intensive industries so they will not be disadvantaged in international competition.

It is the deficit that is strangling the economy and our competitiveness, our jobs and our future—I ask my colleagues to make the tough decision to vote to reduce Government spending, against the special interests, and for a healthy economic future for this country.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON], a member of the committee.

Mr. HOUGHTON. Mr. Chairman, I feel we are in a bit of a rut. We can close our eyes and we can tell who is a Democrat, and who is a Republican, from what they are saying.

Frankly, I think it is too bad to handle one of the biggest issues, maybe of our decade, this particular way. I have probably about 1½ minutes to talk. What I would like to do is to talk not about myself, but I would like to talk to the freshmen, the great reform class, 25 percent of this whole body, and particularly the Democratic freshmen, if I may have the opportunity.

I really have two things to say, First, I have to believe this, having been in business many years. I think the President is getting bad advice. I know he is getting bad advice on the handling of the debt, and as the Members know, 70 percent of our debt is in 5-year or less short-term bonds, and they are even shortening it. That is bad.

On the operating side, what he says is, "Please grow, and please invest, and please reemploy," but when we throw this tax in, and another one, which involves the health care on top of an economy that is trying to get off its knees, what does it do? It is paralyzed. It does not move.

If the economy does not move and the volume drops, no amount of tax increases or cost cuts are going to make up any difference in the deficit, but that is my own view. It may not be the view of the Democrats, and particularly the freshmen Democrats. What is right for them may be different than what is right for me.

However, I implore them to vote their own conscience. I had to when I came here as a freshman in 1987. I voted against aid to the Contras, I voted against my President. I was called to the White House. The Vice President, the Secretary of State, my party leaders asked me. I did what I thought was right.

The thing I ask the Members to do is to do what they think is right, absent the pressure they get from some of the political leaders.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. REYNOLDS].

Mr. REYNOLDS. Mr. Chairman, I am one of those freshmen.

Mr. Chairman, the Omnibus Reconciliation Act of 1993 provides a great opportunity for deficit reduction while at the same time, the bill provides great leadership in helping our urban communities.

This bill facilitates first-time employment for thousands of young adults who live in our cities, and promotes opportunities for enhanced job skills and employment because it extends the targeted jobs tax credit permanently and expands the credit to include participants in school-to-work programs and residents of certain distressed areas.

The bill increases opportunities for low-income residents of our cities to find decent and affordable housing because it permanently extends the low-income housing tax credit. It also expands this valuable program to increase its availability in the empowerment zones and enterprise communities that will be designated.

The bill ensures that no American family with a full-time worker would be below the poverty line because it expands and simplifies the earned income tax credit significantly.

This bill provides tax incentives for people to invest in specialized small businesses. This will help companies attract much-needed equity capital so that they can play a greater role in revitalizing the inner-city economy.

The bill provides for the establishment of empowerment zones and enterprise communities in our Nation's most distressed areas, and targets tax incentives for businesses to locate in, and hire residents of, these areas. This is a critical step toward revitalizing our Nation's most economically distressed urban neighborhoods and offers hope to our residents.

And last, Mr. Chairman, this bill provides a credit for contributions to 10 community development corporations that will be selected. This, too, will promote employment and business opportunities for residents of our distressed communities.

Mr. Chairman, I urge my colleagues to stop the retreat from fairness and stand up for all Americans.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. HANCOCK], a member of the committee.

Mr. HANCOCK. Mr. Chairman, according to the Tax Foundation, the energy tax will kill 1,358 jobs in the dis-

trict of the Member who just spoke. In my district we will lose 1,029 jobs that we cannot afford.

Mr. Chairman, the way to reduce the deficit, is to reduce spending and create jobs. If we grow the private sector job base, we grow the tax base.

And the way to create those jobs is by encouraging small business and investment.

President Clinton has said as much, but this plan does exactly the opposite.

President Clinton has never created a private sector job in his life. That is becoming all too obvious. He has never run a business. Most Members of this House have never run a business or created a real job.

Well, I have. I built a small business from scratch.

And I can tell you, from personal experience, this tax bill will stifle investment, clobber small business, and destroy jobs. But don't believe me. Listen to what other business owners across the country have to say.

I have a letter here from a California company saying:

The proposal to increase the top rate * * * has caused us to defer * * * our previously planned expansions for 1993.

An Illinois company writes:

As a direct result of the increase of taxes * * * we are freezing all future expansion plans.

A Maryland company says:

I have instructed my managers to put off [expansion plans] because of the potential impact of the economic plan.

A New York company writes:

At this point we have no choice other than to cancel altogether my company's plans for some $1.2 million of new investment * * * Instead of creating opportunities, this money will go to the payment of increased income taxes * * *

Those are the words of real small business owners. I have a stack of letters like these. They are the people who create jobs in our country—not the people in this Chamber, not the President and his staff.

So just what we will get in exchange for all these lost jobs—all these higher taxes—all this sacrifice by the American people?

As a businessman, I've got to look at the bottom line, and the bottom line of the Clinton plan, according to his own figures, is that the national debt will increase by over $1 million in the next 5 years.

You do not have to be a businessman to know that is not a good deal.

Mr. Chairman, a government, like a family, can for 1 year or 2 spend more than it earns, but a continuance of that habit means the poorhouse.

□ 1800

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. THORNTON].

Mr. THORNTON. Mr. Chairman, I rise in support of the measure.

Mr. Chairman, in 1979, when I left Congress to return to Arkansas, our national debt was less than $1 trillion; today it is 4 times that large, and has become a stumbling block for our Nation's efforts to educate and train our work force, to provide good jobs for our people, and to provide the highest standard of living and quality of life in the world.

This proposal addresses those issues. It freezes discretionary spending, sets caps on entitlements, and reduces our deficit by 496 billion.

Personally, I would prefer that some things be approached in a different way. I argued strongly for a tax on imported oil rather than the Btu tax, however, either of those alternatives is far better than the gasoline tax.

A gasoline tax has much support in the north and east, but would have a devastating effect on Arkansas, where people drive long distances to work.

More significantly, the proposal contains some significant benefits to the people of my congressional district:

It assumes funding for innovative education and lifetime learning programs, provides for highway construction, and for transforming our welfare programs into jobs.

It provides for earned income tax credit which rewards low-income people for working.

It provides for early childhood education and immunization.

Most significantly, it does these things by making cuts in other programs and by restoring fairness.

For example, an average second district farmer with up to 400 acres of land, or a few chicken houses, will pay less in taxes under this bill than under the existing laws. Earned income tax credits, new self-employment benefits, more rapid depreciation, and other provisions will save the average farmer more than $600 per year, after the energy tax has been applied.

The median family income in Arkansas is $25,395. For the 50 percent of Arkansas families with two children who are below this level of income, the new proposal will actually result in a tax savings of a few dollars each month.

Mr. Chairman, this proposal gets our deficit under control, provides a foundation for better jobs, better education, and a higher quality of life, and will provide real benefits to the people of Arkansas. I urge my colleagues to support this budget proposal.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong support of the bill that is before us. It speaks to change. It speaks to investment in American's future, and the total bill, taken as a whole, increases 200,000 jobs in 1994.

One Republican Member seemed to say that the Reagan-Bush economic record had produced low unemployment and poverty. That is a hollow praise, another revision of economic history. In 1991, the number of poor Americans hit its highest level in more than 20 years; 2.1 million Americans were added to the poverty rolls, nearly 1 in 7, 35.7 million Americans. The poverty increase for children is 1 in 4 today, and it is a national disgrace. And the poverty rate for members of the black community, the African-American community, was at 32.5 percent in 1980 and in 1991 it was at 32.7 percent. And throughout the 1980's it was over 30 percent.

Twelve years of Republican trickle-down economic policy has meant a dead end for both poor Americans and for working Americans. We need to pass the Clinton Budget Pact for a downpayment on America's future.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, the only way we are ever going to reduce our national deficit is by raising new revenue and cutting spending. That is the bottom line. I think we all agree to that.

You cannot do it by cutting spending alone. It has to be a combination, and it must be in balance.

Unless we pass this kind of bill with this kind of a good balance to reduce the national deficit, the American public has the right to hold us accountable. But if we can put this bold program into effect, we have got a chance to do something about the national deficit. That is my concern. That is my appeal to the Members of this body.

I hope we do not continue to be so partisan that we will chastise each other to the very end of the road. We have got a national problem. We must reduce this deficit. I think the only way to do it is with a balance of cuts and spending, and I hope we can do that.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM], a member of the committee.

Mr. SANTORUM. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, according to the Tax Foundation, the energy tax will kill 1,234 jobs in the district of the Member who just spoke.

Mr. Chairman, President Clinton came into Allegheny County and to McKeesport in my district where there is 70-percent Democrat registration, and I was the first Republican elected to that area since 1954, and he claimed that what we are going to do there is that we are going to reclaim the manufacturing base of this country and we are going to build jobs and we are going to create a productive manufacturing sector again in this economy.

Under his plan, Allegheny County loses 3,000 jobs, most of them in the manufacturing sector, because of the Btu tax. There used to be over 100,000 steel jobs in the Mon Valley which I represent, and there are now about 15,000, and this bill will be another neutron bomb on Allegheny County and manufacturing in Allegheny County.

But, unfortunately, it is only part of the problem. We have an inland water-

way user fee, and that is a long name for a tax on diesel fuel used by barges to shift goods up and down our inland waterways. Pittsburgh is the largest inland port in the country, and we happen to ship a lot of our raw materials for our manufacturing on those waterways. So not only is the manufacturing base in the Pittsburgh area going to get hit with a Btu tax, they are going to get hit with a barge tax right up on top of that, and that barge tax is going to collect roughly $230 million annually on top of the close to $40 billion that the inland waterway users will have to pay for Btu tax. That is a burden that is just going to kill manufacturing in an area of the country that has been struggling for the past 12 to 15 years and does not need these kinds of taxes to keep us down.

Mr. President, do not come back to McKeesport next time around and say you want to build manufacturing jobs in the Mon Valley when you propose plans that are going to destroy the manufacturing base of this country. And I might add also out in the county there happens to be an airline, US Air, which has the biggest hub in the country and is in Allegheny County, and those jobs are going to be hurt too.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, a number of our colleagues from farm States are rightfully concerned about the impact the reconciliation bill would have on the agricultural sector. Let me attempt to address those concerns.

Unfortunately, the bill modestly increases the amount of taxes paid by most farmers. But after 12 years of avoiding the tough decisions, and a national debt increasing from $900 billion to over $4 trillion, the party is over. We simply must have additional revenues if we are to turn the corner on the deficit.

Unfortunately, as we all know, we cannot do it with cuts alone, although I certainly favor making more cuts than we are making and will fight for those. But revenues are inevitably necessary. What is important is that the burden be shared fairly by all Americans. That way we can spread it out. The average American will be taxed less than 75 cents per day by the energy tax.

But farmers are high energy users. Farm operations, unlike many other businesses, do not have the ability to pass on the increased costs resulting from the energy tax. The Ways and Means Committee began moving the bill in a direction to assure that the energy tax does not fall disproportionately upon the farm sector.

The reconciliation bill contains a number of provisions intended to ensure that farmers are treated fairly.

Partial relief from energy tax. The bill would exempt farmers from payment of the oil supplement on gasoline and diesel fuel used on the farm. This would reduce the energy tax paid by farmers on such fuels by 57 percent. Congressman DAN GLICKMAN deserves the credit for bringing this idea to the Ways and Means Committee with the necessary supporting data, a study entitled "Impact of a Btu Tax on Whole Farm and Enterprise Production Costs in Kansas" prepared by Jeffery R. Williams and Fredrick D. DeLano, two economists from Kansas State University. We are hopeful the Senate will complete the exemption.

Feedstock exemption. The bill would provide for a feedstock exemption for nonfuel uses of energy sources. By way of example, natural gas used as a feedstock to make fertilizer would be exempt from the energy tax.

Increase in earned income tax credit. The EITC is available to farmers with lower incomes. The reconciliation bill would increase the EITC in part to offset the energy tax paid by low-income farmers.

Deduction of health insurance premiums. The bill would extend the 25-percent deduction for health insurance premiums paid by self-employed farmers.

Expensing. The bill would allow farmers to annually expense $25,000 in depreciable assets—a $15,000 increase over the current $10,000 expensing cap. The $15,000 increase would free up cashflow for farmers.

Tax-exempt bonds. The reconciliation bill would permanently extend the issuance of aggie bonds. Aggie bonds are tax-exempt bonds issued for the purpose of extending low-interest loans to beginning farmers. Through March 31, 1992, loans in the following amounts were made to beginning farmers: Nebraska—$55 million; Colorado—$17.8 million; Illinois—$132.14 million; Iowa—$106.87 million; Kansas—$13.67 million; and North Dakota—$36.72 million. Additional low-interest aggie loans were made in other agricultural States.

Barge tax. The bill would cut the proposed increase in the inland waterways fuel tax by one-half to 50 cents per gallon. The decrease would reduce the costs to farmers of shipping their grains to market and of shipping commodities, such as fertilizer, to farmers.

What is most important to consider is that low-interest rates will cancel the effect of the energy tax on farmers. In the study requested by Representative GLICKMAN, Kansas State University economists Jeffery Williams and Fredrick DeLano, in a thorough analysis, stated their conclusion:

> If the [Btu] tax is used for debt reduction such that interest rates for borrowed funds fall, the average farm will benefit from lower interest rates. For the average Kansas farm a 2% reduction in the rate of interest paid on the average farm debt would offset the increased cost of the Btu taxes.

So you see, the most important thing we can do for America is deal honestly and effectively with the deficit by achieving as much deficit reduction as is politically possible in this bill. That will calm the markets, keep interest rates low, make up for the cost of this modest energy tax, and benefit all of America.

I believe that the above provisions, all of which are contained in the reconciliation bill, go a long way toward ensuring that the taxes which would be levied on the farm sector are fair in relationship to the taxes imposed on the remainder of Americans.

The reconciliation bill also includes provisions reported by the Agriculture Committee that would reduce farm programs and save $3 billion over the next 5 years. That includes increasing the triple-base acreage on which crops would not be eligible for deficiency payments, as well as savings from the Rural Electrification Administration, which the President singled out in his address to the Congress earlier this year.

The bottom line is that this bill is tough but fair. I strongly encourage you to support the reconciliation bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, late last night, the Committee on Government Operations, Budget, the House leadership, and others reached an historic compromise that sets all Federal spending, including spending for entitlements, subject to stronger congressional and Presidential review. I believe these enforcement mechanisms are critical to ensure success of the most ambitious deficit reduction package in American history before us here today.

The package today includes in its base text the extension of the enforcement provisions which President Bush and the congressional leadership negotiated in the Budget Enforcement Act in 1990. But it also does more. It creates a single cap for appropriations spending and extends the pay-go rules for policy changes in entitlements and taxes. In addition the pay-go scorecard is reflected to ensure that savings not obligated for investment must go to deficit reduction. The creation of a trust fund also helps ensure that.

Late last night, we also reached an important compromise on how to control the explosion in entitlement spending. We create new entitlement targets, the baseline for which is pegged to the 5-year budget resolution numbers and is adjustable depending on changes in the beneficiary populations. In the event of a breach of that baseline, the President is required to submit to Congress a plan which is automatically discharged from the Budget Committee unless the Budget Committee addresses the overage in the budget resolution.

Further, if the budget resolution does not address the entire overage through

savings in spending or revenues, then there is a requirement for a separate vote to increase the cap. The basic purpose here is to force Members to specifically vote on what to do as a result of the overage.

Finally, there are points of order against budget resolution conference agreements that do not fully address the overage, in order to ensure that the Senate also addresses the entirety of the overage, and against appropriations bills in the event there is no budget resolution and this process is thereby not triggered.

This is an important step to controlling entitlement spending. It requires us in the event that entitlements exceed their targets, to say how we are going to address the problem—by achieving offsetting savings in spending or revenues, or voting to increase the caps and thus increase the deficit.

This maintains total flexibility, but requires action and accountability. It is sensible reform, will ensure success of the most meaningful deficit reduction ever enacted, and Members should support it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, after 12 years of Republican spend-and-borrow; after 12 years of Republicans driving us to the brink of bankruptcy; now is the time for Democrats to lift this country back on track.

Having lost the White House, the Republicans are determined to deny this President his programs—no matter at what cost to the Nation.

Let us—Democrats strong—turn back the filibustering Philistines and let us throw out the guardians of gridlock.

This Nation is engaged in a struggle to restore economic health and fiscal sanity to our country.

You will hear increasingly shrill cries that the President's deficit reduction package is only tax-and-spend. There is little credibility in those cries coming from the same forces who brought this country to the brink of bankruptcy and want to protect the wealthiest Americans. They are trying every trick in the political book to prevent the President from enacting his platform. They are fighting for the status quo of borrow-and-spend.

Make no mistake about it. This is a deadly serious battle. Our Nation's very future depends on it.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, I simply would like to state my opposition to this massive job-killing tax bill and the associated charade.

Mr. Chairman. Voting against H.R. 2264 is one of the proudest votes of my life. This bill is a job-killing charade, and it's especially sad to see how many of the Democrat freshmen were seduced by the siren song of tax now and cut later.

This slams the door and throws away the key on the President's campaign promises of tax relief for the middle class. This hits Americans with the biggest tax increase in U.S. history. That won't stimulate the economy, it will drive up inflation and unemployment.

The energy taxes will cost Oklahoma 11,000 jobs. Nationwide, it will cost between 600,000 and a million jobs. That's enough to make Americans stop thinking about the President's hair—and start thinking about his scalp.

The new taxes are bad enough. but I'm not only angry at the massive tax increases, I'm angry at the fakery in the bill. It tries to fool people into thinking it's some kind of serious deficit reduction plan. But the make-believe entitlement caps are as phony as the promises we heard the last time taxes went up. The taxes hit now; the spending cuts never arrive. The so-called deficit trust fund Mr. Clinton promises is a joke, only the joke's on the taxpayer.

We were promised tax cuts, instead we got haircuts. And the unkindest cut of all is just that, when it comes to Federal spending, Clinton's plan just doesn't cut it.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, the President's taxes are the largest in American history. They are not going to help the economy. They are not going to create jobs and they are certainly not going to control Government spending.

Farm families are going to be especially hard hit by the energy tax.

The energy taxes are indexed for inflation, which means they'll keep going up, up, and up.

But it is not just the tax, it is how complicated it will be when many farmers will have to deal with different tax levels on fuels they use. Between fuel dying and different tanks, the costs and complexity will be incredible.

Why are we going to do this to American farm families?

Why are we going to do this to American agriculture which is our leading U.S. export?

The energy tax is a tax on everyone and not everyone can afford it. In November, the people spoke—they want us to cut spending but the administration has proposed adding another trillion dollars to the debt.

Mr. Chairman, the facts speak for themselves on the President's tax plan and America cannot afford it.

The energy tax would kill 742 jobs in the district of the speaker before me, Mrs. UNSOELD. The Fourth Congressional District of Michigan would lose nearly 1,000 jobs that we cannot afford to lose.

Mr. Chairman, the President's taxes are the largest in American history. They are not going to help the economy, they are not going to create jobs and they are certainly not going to control Government spending.

The tax increases are retroactive, but the spending cuts don't start for 2 years. We were promised $2 in spending cuts for every $1 in new taxes. But this tax bill is $4 in new taxes for every $1 in spending cuts. And, it increases the national debt by over $1 trillion.

One of the reasons for this is the devastating energy tax in the President's plan which will cost the U.S. economy over 600,000 jobs.

In my home State of Michigan a family of four would pay about $800 a year in energy taxes for home heating fuel and other goods and services they purchase.

Further, the energy taxes are indexed for inflation, which means they'll keep going up, and up, and up.

Farm families are going to be especially hard hit by the energy tax.

The energy taxes are indexed for inflation which means they'll keep going up, and up, and up.

But it's not just the tax, it's how complicated it will be when many farmers will be having to deal with five different tax levels on fuels they use. Between fuel dying and different tanks, the costs and complexity will be incredible.

On average there would be $1,600 in energy-related costs to an individual farmer producing about 400 acres of corn in the midwest.

Why are we going to do this to American farm families? Why are we going to do this to American agriculture which is our leading U.S. export?

The energy tax is a tax on everyone and not everyone can afford it. In November, the people spoke—they want us to cut spending, but the administration has proposed adding another trillion dollars to the national debt.

The President pledged he would cut Federal spending and cut taxes for middle-income tax payers. Now we're voting on his increased spending and tax increases which are the largest in American history.

Mr. Speaker, the facts speak for themselves on the President's tax plan and America can't afford it.

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Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, I think it is important to point out that at this stage of the proceedings some of us are receiving missives, faxes, from oil companies in our own State.

It is interesting that I notice that those missives did not go to the Republicans in the other body during the time we were considering a jobs bill. So it is really interesting to be treated today, right here on this floor, to the spectacle of a whole bunch of people up here citing how many jobs are going to be lost.

They did not cite about how many jobs were going to be created if we passed the President's stimulus package, did they? You cannot come here and have it both ways.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, this is a very difficult vote for all of us here in the House. This is an especially difficult vote for those of us who represent rural districts around the country.

In this bill we have yet another round of budget cuts in our vital farm and rural programs. Then there is this energy-Btu tax which will be felt by practically every person and every business across rural America.

It would be easy for a Member from a rural district to vote "no" on this bill. Voting against tax increases is always popular back home. There are groups who always give you an award for voting against any tax increases—even while they tell Congress to reduce the deficit.

Voting for budget cuts in programs is always popular back home too—as long as you also vigorously defend the programs that matter most to your district's interests. Some of the taxpayer groups give out awards for being a pork-buster.

But nobody gives you an award for raising taxes and cutting spending—even if it may be in our Nation's best interests at this time.

Some are going to argue that Democrats in Congress cut farm programs to increase food stamp spending. Nothing could be further from the truth.

The budget resolution stipulated $2.95 billion in reductions in mandatory agriculture spending and $627 million in authorization reductions over the next 5 years.

Some of the other side will claim the Agriculture Committee could have reduced the food stamp funding increase by $3 billion and that would have eliminated the need for any farm program cuts.

That will sound good back home. But it is not true.

The food stamp provisions are not scored as mandatory spending. If that Republican amendment would have been adopted, it would have resulted in no budget savings by the House Agriculture Committee. The House would have imposed budget cuts on agriculture.

We met the budget resolution targets in this reconciliation bill. As long as I am chairman, the Committee on Agriculture will fight the good fight on budget priorities, but we will always respect and abide by the final decision of the Congress on the budget resolution.

Another misleading argument put out by the other side is that this $2.95 billion reduction in agriculture programs will cripple the farm economy. Let there be no question, it will be painful.

But I recall that Republican administrations for the past 12 years wanted to decimate agriculture programs. They asked Congress in 1990 to slash agriculture spending by more than $22 billion between fiscal 1991–95.

Let us set the record straight. The Kasich substitute—the Republican substitute—will cut farm programs by half again as much as the Democratic bill. The Kasich substitute will reduce farm program spending by $4.5 billion over 5 years.

H.R. 2264 represents a reduction of less than 6 percent from baseline farm program spending. It's the best deal farm country has gotten in more than 12 years.

None of us want to vote for a tax increase. However, the package represented by the bill before the House today gives the opportunity to reverse the path of annual deficit increases in a fair and evenhanded way. The table below was prepared by the Congressional Budget Office and demonstrates that, taken as a whole, H.R. 2264 fairly spreads the burden of deficit reduction.

DISTRIBUTION OF RECONCILIATION TAX CHANGES INCLUDING INCREASES IN EITC, LIHEAP, AND FOOD STAMPS

Households by dollar income	Dollar change in all taxes	Change in after-tax income	Percent share of total households	Share of total tax change
Less than $10,000	−120	+2.2	15	−3.6
$10,000 to $20,000	−59	.4	19	−2.2
$20,000 to $30,000	24	−.1	17	.8
$30,000 to $40,000	161	−.6	13	4.4
$40,000 to $50,000	270	−.8	10	5.8
$50,000 to $75,000	368	−.8	15	12.4
$75,000 to $100,000	491	−.8	6	7.2
$100,000 to $200,000	765	−.8	4	8.5
$200,000 or more	23,217	−.6	1	66.1
All	463	−1.4	100	100.0

Source: Congressional Budget Office.

The good news is that this House Democratic reconciliation bill at least exempts farmers from nearly 60 percent of the total Btu tax. Under this bill, on-farm use of diesel and gasoline is exempted entirely from the higher supplemental tax on petroleum products.

I want to thank the chairman of the Ways and Means Committee, Chairman ROSTENKOWSKI, and his committee members for listening to our concerns and attempting to ease the impact on farmers in what they felt was a fair manner. This represents a substantial improvement relative to the President's original proposal.

Given that agriculture uses energy with more intensity than many other industries, this modification—combined with the benefits contained in other parts in the bill—helps to ensure that the important task of reducing the deficit is carried out fairly.

The following table—also prepared by CBO—helps to demonstrate the overall fairness of distribution of the Btu tax's burden:

DISTRIBUTION OF THE BTU TAX EITC, FOOD STAMPS, AND LIHEAP OFFSETS, FULLY PHASED-IN 1994 INCOME LEVELS

Households	Dollar burdens	Percent change in after-tax income
All	$83	−0.2
Less than $10,000	−116	2.1
$10,000 to $20,000	−61	.5
$20,000 to $30,000	2	.0
$30,000 to $40,000	117	−.4
$40,000 to $50,000	179	−.5
$50,000 to $75,000	213	−.5
$75,000 to $100,000	267	−.4
$100,000 to $200,000	274	−.3
$200,000 and over	700	−.2

Source: Congressional Budget Office.

Mr. Chairman, other provisions of the bill will also help ease the burden of deficit reduction on the rural economy. There are a number of Tax Code amendments in the bill that will benefit agriculture in particular and rural America in general.

The bill allows farmers to expense up to $25,000 of depreciable assets per year without regard to normal depreciation schedules—that's a $15,000 increase from current levels.

It permanently extends first-time farmer bonds.

It extends the 25-percent deduction for health insurance premiums paid by self-employed farmers.

It simplifies the rules for filing estimated taxes.

Investors are given tax incentives to encourage them to provide equity capital to productive small businesses.

Small businesses in the real estate field will benefit from the relaxation of passive loss rules that allow for increased deductibility.

This bill also provides for the establishment of empowerment zones to help the most distressed rural communities across the country by providing tax incentives for businesses to invest.

In addition, the bill provides for crop insurance improvements and REA changes that will benefit rural America—and save taxpayers money.

We must do more to cut spending. We must bring sanity to the growth of entitlements—and I am encouraged by this new agreement on entitlement discipline. I am for that. But in the end, we will still probably need some tax increases to help close the budget gap.

Let me close by saying that there are a lot of good things for our country in this bill. There are a lot of good things for farmers and rural residents in this bill that is being drowned out in this debate over the Btu tax.

This is the largest deficit-reduction package in history. If we bring down the Federal deficit, we can restore confidence in our economy and we can help keep interest rates down. That's good for farmers, for business, and for home buyers.

I understand the pressures my colleagues are feeling from both the special interests here in Washington and from some of their constituents back home. Boy, I'm hearing it too.

What we must decide here today is whether this House is willing to confront the Nation's problems and make the difficult decisions as our President has done. This whole bill is about exercising the leadership, the courage and the vision to do what is good for our country.

This is not a perfect package, but it has been improved considerably. I am sure further refinements will be made by the other body. This is just the beginning of a long process.

Let there be no misunderstanding of the message we will send out today by the votes we make. Our constituents are watching, the financial markets are watching, the world is watching. If we vote down this bill today, we will be admitting to the world our inability to make the hard choices to put our financial house in order. If we fail to act, the benefits we have seen in the gains in the stock market, declining unemployment, and the lower interest rates over the past few months will evaporate. Resulting increases in interest rates will be the cruelest tax of all.

Mr. Chairman, I don't like the medicine, but I will take it. We must and we will continue to look for other ways to revive our Nation's economy and ensure a better future for our children. But for now this budget reconciliation package is our best hope, and I strongly urge my colleagues to support this bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, it has been fascinating the amount of rhetoric that has gone on in this institution for the last several years about "We have got to bite the bullet; we have to make the tough choices."

This would not be a tough choice if it was popular. We have to make very difficult decisions about cutting spending which is popular only in the aggregate and gets very painful in the specific. We have to make very difficult choices about raising taxes to provide the revenue to deal with the investments that we have neglected for the last 10 years.

Mr. Chairman, this is not a popular bill, and by definition, the tough choices are not made on popular bills. This is what we have to do. This is what we have to do to get a handle on the deficit.

Today is the day. This is the bullet. This is what we have to bite, and it is about time we put our votes where our rhetoric has been.

Mr. BACCHUS of Florida. Mr. Chairman, I rise in strong support of H.R. 2264, the Omnibus Budget Reconciliation Act. After 12 irresponsible years of borrow and spend, this plan charts a new course toward fiscal responsibility and economic growth. This plan is good for business, good for families, and good for America.

No, this plan isn't perfect. Like many of my colleagues, I would like to see more spending cuts and more incentives for business such as a generous investment tax credit and deeper and broader cuts in the capital gains tax.

But this plan is a good start. It makes 200 cuts in spending programs to produce $250 billion in deficit reduction. Altogether, this plan will prevent $0.5 trillion in deficit spending in the next 5 years. It will cut in half the amount of the gross national product going to deficit spending.

This plan is fair. Three-fourths of the tax increases will be paid by the most well-off Americans—those families earning more than $100,000 a year. And the benefits of new jobs, economic growth, and lower interest rates will be shared by everyone.

This plan is especially good for business. By reducing the budget deficit, this plan will bring down interest rates and that in turn will spur economic growth. That will help us preserve and create more jobs in Florida and throughout America.

High interest rates are the biggest obstacle to business investment and economic growth. There is no surer sign of this plan's effectiveness than the fact that in anticipation of its passage, long-term interest rates already have fallen to their lowest level in 20 years. As the deficit falls, interest rates and the cost of capital will continue to fall as well, and jobs and growth will result.

There is much more in the plan for business. Not just big business, but the service station of the Eau Gallie Causeway and the coffee shop in downtown Titusville in my district.

We increase from $10,000 to $25,000 the amount a small business can deduct in full each year for new equipment. This will inspire capital investments by growing businesses.

We provide a targeted capital gains exclusion for investors in qualified small businesses who hold their stock for at least 5 years. This will provide much-needed venture capital for promising enterprises.

We repeal the luxury tax that has so decimated boat-building and other vital industries.

We make permanent the 20-percent tax credit for new expenditures on research and experimentation. This will stimulate growth of many of the high-technology firms that are so important to my district and to the future of America.

We do much to bolster the real estate industry, which has led our country out of recession eight times since World War II. This bill includes passive loss relief, permanent extension of the low-income housing tax credit, permanent extension of the Mortgage Revenue Bond Program, provisions to facilitate pension fund investment in real estate, and debt restructuring to give taxpayers a greater opportunity to work out loans and avoid bankruptcy. All these will help rekindle the real estate markets.

We make permanent the targeted jobs tax credit to help businesses move hard-to-place workers from the welfare rolls to the work rolls. Likewise, we make permanent the exclusion for employer-provided educational assistance.

No wonder this plan has the support of organizations such as the National Association of Home Builders, the National Association of Realtors, the National Marine Manufacturers Association, the International Council of Shopping Centers, and many other business organizations and businesses. They know this plan is good for business.

This plan is good for families, too. The lowest-income families will profit from this plan. And the minimal tax impact of middle-income families will be more than offset by the expansion of the earned income tax credit and by reductions in interest rates on home mortgages, automobile loans, student loans, and other credit purchases. Take, for example, a family that refinances their 10-percent mortgage at 7.5 percent. They will save $175 a month or $2,100 a year on that alone.

Yes, we need even more deficit reduction. We need a balanced budget amendment and a real line-item veto for the President. We need comprehensive health care reform later this year to address the single fastest-growing element of our Federal budget and the Federal budget deficit.

Yet this plan is a foundation on which to build. This plan is a good start.

Mr. BARCIA. Mr. Chairman, I rise in reluctant support of the Omnibus Budget Reconciliation Act. I definitely do not support every specific detail in it. I do not support the Btu tax in its present form. I am concerned that it may be asking too much from individuals who are living on moderate incomes.

Today's vote is not the final one that sends this package to the White House. The proposal still needs approval by the Senate, and then we will have to again vote on a final version that resolves the differences between this proposal and the Senate version.

I am very concerned that if we do not accept this package we are guilty of the very gridlock we swore to end in Washington. It is easy to say no. It takes very little courage to stand up to people who say "save my program, and don't ask me to pay for it." It takes a great deal of courage to say enough is enough and it is time that we deal with the budget honestly. We all know that spending cuts alone will not solve the deficit problem, unless Americans are willing to accept a wholesale abandonment of entire agencies, let alone programs. Some taxes will need to be changed, maybe because they were changed too much in the 1980's. But unless we get both our spending and our revenue in order, we will never solve the deficit problem that my constituents tell me they want solved.

I am casting a "yes" vote on reconciliation because I want to see our budget deficit controlled and this process to move forward. I consider my vote procedural, and it is not an endorsement of the details of this package. We all know that modifications will be made in this bill by the Senate. They will take care of many of the problems I have with the Btu tax and other issues. But if the Senate fails to properly resolve these matters, I reserve the right to vote "no" on the conference agreement. We are not sending this bill to the President, so today's vote is not as critical as the one that will come later in the summer on the conference report.

People have been led to believe that this bill will be a horrendous burden on them. It should not. It is balanced with spending cuts and tax increases of equal amounts. The revenues raised and the savings from reduced expenditures will be placed into a special deficit reduction trust fund, locking in the nearly $0.5 trillion in deficit reduction for only deficit reduction. It now will have enforceable restrictions on the growth in entitlements. Either the growth is paid for or voted for. Either way, the Government is accountable, not allowed to hide behind automatic increases. The tax burden falls on those with the largest incomes. Sixty-two percent of all taxes would fall on the richest one percent of Americans. Only those Americans who have incomes in excess of $145,000 for a couple or $115,000 for an individual will have their income tax rise. In fact, according to the Congressional Budget Office, those with incomes of $20,000 to $30,000 will pay only $3 more per month in taxes under this plan, and those with incomes of $30,000 to $40,000 will pay $14 more per month. Those making over $200,000 will pay $1,935 more. There is no doubt as to who is affected by the taxes in this bill.

If we are concerned about our Nation's fiscal health and our Nation's wealth, we must deal with the deficit. When expenses go up in our families, we devote more funds to necessities and less to other items. This bill does that. It shifts spending from less important to more important items. It makes its big cuts in discretionary spending, which will hurt. We are making our choices to protect our long-term interests, at the expense of short-term comforts.

My district's single largest employer, General Motors, supports this plan. They do not like every single component of it, but they recognize that it may be the best total package for the long run. They recognize that the energy consequences of the Btu tax may mean that at long last we can get away from the

CAFE standard that hampers our auto industry. This will allow our auto industry to move forward, and gives us the ability to keep auto jobs in Michigan. The bill extends the health benefit tax deduction that farmers tell me they want. It expands the earned income tax credit. It increases expensing. It extends small issue agricultural bonds. It extends the ability of a hospital in my district to receive Medicaid payments for constituents served by this facility. There are good provisions in this bill. We are asking the President to understand some of the problems that we face in my congressional district with some of the provisions in this bill. If we want him to understand our needs, then it is only fair that we understand the problems that has forced him to suggest other provisions in this bill.

Mr. Speaker, I supported more spending cuts in the budget resolution, and we won. I joined with 19 of my freshmen colleagues in signing a letter to the President asking for more spending reductions in this reconciliation bill, and we have already had success with the additional enforcement provisions on setting priorities with entitlements. The budget deficit problem was not created by one bill, nor will it be solved by one bill. The process will extend to each and every authorization bill, each and every appropriation bill, and each and every reconciliation bill for years to come. My eye is on the future. My goal is to get our fiscal house in order. This multistep process begins today, not in a way which I would heartily endorse, but it does begin today. I support this bill to break the gridlock symbolized by a "no" vote. I support this bill to move toward our ultimate goal, and to let the American people know that we are serious about dealing with our problems by keeping the process moving.

While I am willing to give the process a chance, I advise my friends and neighbors in Michigan's Fifth Congressional District, my colleagues in Congress, and our President, however, that I will not vote for final passage of the reconciliation bill unless I can tell our citizens that we have made even more progress in this process that I vote to extend today.

Mr. HUGHES. Mr. Chairman, I rise today in support of H.R. 2264, the Omnibus Reconciliation Act. As America looks to build a stronger economy, deficit reduction must be our top priority. I am hopeful that the adoption of this bill will mark the beginning of the end of deficit spending and the beginning of the long awaited deficit reduction process that makes that possible.

At the outset, let me be clear about my position. I'm not happy with the options presented to me today. That is why I voted against the rule. It's disgraceful that we do not have the opportunity to work our will on the Btu tax and other provisions which I, and so many others do not support.

This measure does represent a comprehensive deficit reduction plan which will significantly reduce the deficit—which is strangling our economy—by $496 billion over the next 5 years. Deficit reduction will facilitate long term economic growth and productivity, so that our children may inherit an America that is fiscally sound and capable of maintaining her position as the world's leader in what is rapidly becoming a global economy.

The problems we are now facing are, in large part, a result of the past 12 years of misplaced priorities and failed fiscal policy. I believe that the reconciliation bill is a break from this harmful trend.

Unlike the 1990 budget agreement which relied too heavily on tax increases and not enough on spending cuts; and unlike the massive tax bill of 1981 which provided a plethora of tax cuts which drained our Treasury of more than $2 trillion and increased the Federal budget deficit by more than five times over, the reconciliation bill offers real solutions to the very serious problems that have been plaguing our economy for far too many years.

There is one element missing from the plan before us today, that I will not miss—namely, the phony economic assumptions and other irresponsible accounting gimmicks that the past two administrations have used to mask and sugar-coat the very serious economic problems our country faces. I am confident that the sound, straightforward, and overall fiscal policy set forth in the reconciliation package will help chart the course for our economic recovery.

I certainly do not agree with every single detail of this package. In particular the Btu tax gives me heartburn. I have been able to secure assurances from the administration that it was not the intent of the feedstock exemption to provide any undue competitive advantage for any industry. Even with that, I question the wisdom of this particular tax and will continue to work for its elimination.

I could pick apart a number of other provisions I do not support. But there are dozens of provisions I do support. Besides, no one has come forward with a package that will pass. So what is the bottom line—no bill—stalemate—larger deficits and higher interest rates? That is not a viable option.

On the other hand, I am pleased that the reconciliation bill addresses all aspects of the budget including discretionary spending, entitlement payments to individuals as well as the—even unpopular—revenue side of the ledger.

This bill provides for some $246 billion in spending cuts, representing one-half of the total deficit reduction.

Moreover, this measure recognizes that cutting discretionary spending alone will not be enough to achieve our long-term goals. In this regard, the bill establishes important provisions to slow the rate of growth of entitlement programs and control spending which accounts for more than one-half of the national budget, and is growing much faster than the economy as a whole.

Although I am pleased to see that this bill includes some 200 cuts in spending programs, I wanted to see even more cuts in such programs as the $30 billion space station, the $10 billion superconducting super collider and other programs in the discretionary as well as the entitlement areas of the budget.

Certainly, I do not want to see any increases in taxes—no one does. However, I do think it is time that we require the most affluent individuals and corporations—especially foreign-owned corporations—to start paying their fair share. These groups have had a relatively free ride through the 1980's while the middle class has borne the brunt of the tax burden. I am glad that the reconciliation package includes tax reforms which will restore equity to our tax system.

Certainly, supporting an economic reform package which generates any increased taxes is the hallmark example of the politically unpopular decision. For example, I have particular concerns about increasing the tax on the taxable portion of Social Security benefits from the current 50 percent to 80 percent. In today's economy retired couples earning $32,000 and who are receiving Social Security benefits are certainly not the more affluent of society—and I think it is ridiculous to classify them as such.

None of the decisions we have to make are really going to be easy. I submit that any such cost in political capital pales in comparison to the price being paid by our children and grandchildren from the past years of inept fiscal policy. Our country is facing a grave financial crisis which calls for our forthright, aggressive, and timely action. I am encouraged that the reconciliation bill contains key provisions which will assist in our economic recovery by establishing key investment incentives.

There are other reasons why a "no" vote on the package is problematic. By not supporting the measure we will also be rejecting other very worthwhile provisions. For example, I am pleased that this bill will finally repeal the onerous luxury tax on boats, which has wreaked havoc on the entire American boat-building industry. Everyday that this tax is in effect, more boat-building companies are forced to close, costing thousands of hard-working Americans their livelihoods. My colleagues may recall that we have twice voted for the repeal of this tax, only to have these initiatives vetoed by former-President Bush.

I am painfully aware of the debilitating effect of this tax; indeed my own State of New Jersey has been hardest hit with employment in the boat-building industry dropping nearly 90 percent since its enactment. This is similarly reflected on a national scale with companies that build boats in the luxury tax range having dropping in employment by approximately 73 percent. I am very gratified that the reconciliation bill will, once and for all, see that this ill-advised tax is repealed.

Furthermore, the reconciliation bill modifies the passive loss rules for taxpayers who materially participate in rental real estate activities. This provision alone, will breath life back into the real estate industry which has been struggling to recover. Likewise, this bill establishes targeted capital gains provisions which will allow investors to exclude one-half of the capital gains earned from long-term investment in small business. We know from experience that small businesses create the lions-investment in such valuable business ventures.

Furthermore, this bill will extend, permanently, the targeted jobs tax credit [TJTC], the low-income home tax credit as well as the mortgage revenue bond and small-issue development bond programs. These credits have proven to be a tremendous benefit to the economy and I am very pleased that the reconciliation bill includes these worthwhile provisions.

So while this package is far from perfect, I do believe that, overall, this is a plan that will put us on the right course for achieving our goals of deficit reduction and economic growth. We are facing an economic crisis which requires our immediate attention. The

decisions to be made will not be easy, yet they are critically necessary.

We will have a chance by advancing this bill to the Senate to correct the deficiencies I have noted so that the conference report will be in a more acceptable form. If that does not occur, I will then have an opportunity to vote against it in its final form.

A rejection today denies us that option and presents us with the serious risk that the next reconciliation effort could be even more unacceptable—if we can find one that will get 218 votes. No, moving this process along is the only responsible vote.

Therefore, I urge my colleagues to join me in supporting the Omnibus Reconciliation Act.

Mr. ORTON. Mr. Chairman, I support and commend the President and the House leadership for developing and supporting this bill to cut $500 billion from Federal spending. It is notable that the Republican alternative cuts spending by $141 billion less than this reconciliation bill does. The Democratic Party is clearly the party that truly cares about cutting deficit spending and is willing to move forward with real deficit reduction.

President Clinton has changed the debate in this country from whether we would ever reduce the deficit to how we will reduce the deficit.

It is certain to me that we will pass a budget reconciliation bill which implements the President's budget and actually reduces the deficit by approximately $500 billion in the next 5 years. What is at issue today, therefore, is not whether we will pass the bill but what goes into the package.

We have taken the President's proposal which contained many good provisions and made it better.

We have extended the pay-as-you-go provisions of the 1990 budget agreement which requires that any new spending must be paid for through cuts in other spending or in new taxes.

We have included the President's deficit reduction trust fund to guarantee that all taxes raised in this package will actually reduce the deficit and cannot be used to pay for new spending programs.

The 5-year freeze on discretionary spending in the budget is a first and puts Congress on record that it will not allow optional spending to rise. I worked hard in the Budget Committee to freeze discretionary spending and applaud the committee chairman for working with us to accomplish this. That measure alone will save Americans almost $90 billion over the next 5 years.

Late last night this legislation was improved further. We were able to push through needed revisions that help control entitlement, or "mandatory," spending. Are these limits on uncontrolled increases in entitlement spending enough? No. I urge the Congress to adopt comprehensive budget process reform similar to what I have proposed in H.R. 1138.

But these controls do for the first time limit growth in the largest and fastest growing part of our budget. We cannot abdicate our responsibility in this area, as we have up until now. Without dealing with mandatory spending we cannot control the deficit. I thank the White House and the leadership for recognizing this need and for addressing it in this bill. It helps meet our commitment to the American people to get Federal spending under control. Without such a measure, runaway entitlement spending could add as much as $200 billion extra to the Federal debt over the next 5 years.

I am therefore positive about this bill in many ways.

I do have concerns over what's in the bill, however, and will vote against it due to its inclusion of the energy and Social Security tax increases.

The Btu tax is a left jab to the chin of middle-income Americans, and the tax increase in Social Security is an uppercut to the midsection of the elderly. It strikes especially hard at energy-producing States like my own State of Utah. Even with some exemptions for certain energy-related purchases, this tax will hit farmers, persons who drive long distances, coal producers and steel producers, and their employees in Utah.

I am not willing to subject my district and State to a tax that will hit middle-income Americans so directly, and will hit my constituents harder than most other districts and States. Spending cuts must, in fact, come first.

The Btu tax in particular is almost certain to be removed from the package or significantly altered before final passage.

The administration and the House leadership have acknowledged that the bill will undergo substantial changes before reaching the President's desk. It is unfortunate that this House was not able to resolve the problems with the energy tax, increase in the Social Security tax, and the entitlement cuts prior to sending it on to the Senate.

I support our President and want to pass reconciliation.

The question before us today, therefore, is not whether we will or will not send the President a budget reconciliation bill. We will. The question is, "What will be in it?" I am committed to keeping our promises to middle-income Americans and keeping our focus on the larger goal of economic recovery.

I urge the Congress to work together with the President to perfect this bill by lowering taxes and increasing the spending cuts in this reconciliation package.

Ms. NORTON. Mr. Chairman, may I thank Post Office and Civil Service Committee Chairman BILL CLAY and his staff for their strong support of our efforts to develop the alternative savings proposals now contained in the budget reconciliation package. Thanks also is especially due to Chairman STENY HOYER and his staff, for Representative HOYER played a major role in the solution reached by our subcommittee. Further, we would not have prevailed without the flexibility, cooperation, and hard work of Chairman SABO and Director Panetta, and the work of OMB, OPM, GAO, and CBO.

We have adopted a set of alternatives that meet President Clinton's assignment of $39 million in savings to the committee. As a result, great sacrifice is extracted from Federal employees, but preservation of some benefits is achieved and wholesale demoralization of the Federal work force is avoided.

Perhaps most important, the national implementation of locality pay adjustments for Federal workers in 1994 would proceed as intended by Congress. Locality pay, which is intended to close the gap between Federal and private sector pay estimated to be an average of 30 percent, was mandated under the Federal Employees Pay Comparability Act of 1990. This is a critical element in a comprehensive system for pay reform designed to stem the Government's diminishing ability to attract and retain a skilled work force for vital public service functions.

Our efforts to preserve locality pay began after President Clinton announced his deficit reduction program on February 17, 1993. Proposals for substantial contributions from Federal workers were included: a pay freeze in 1994 followed by a 1-percent reduction in the amount of the annual raise for 1995 through 1997; a 1-year delay of nationwide locality pay; reduced benefits for the survivors of Federal workers; and the transfer of almost $700 million in Federal Employee Health Benefits Program premium costs from the Government to program enrollees. All of this was in addition to the contributions being asked of all Americans.

As Chair of the Subcommittee on Compensation and Employee Benefits, I immediately decided to hold early hearings on the President's proposals to see if alternatives could be developed. The first, on March 3, 1993, was a field hearing in the District of Columbia where Federal employees from across the region and the national Federal employee organizations responded favorably to my request to list the proposals which they found most objectionable and to offer alternative proposals for reducing the cost of Government. At a second hearing on March 10, we received testimony about the details of the President's program from CBO, OMB, OPM, and GAO.

We subsequently compiled a list of over two dozen alternative proposals for reducing the cost of Government that were submitted to the subcommittee by witnesses, Members of Congress, and the public. We then sent them to CBO, OMB, OPM, and GAO for analysis and estimates that would assist us in evaluating their relative merit and capacity to generate real savings as measured by CBO standards. We invited the Federal employee organizations to comment on them as well.

Our objective throughout this process was to engage Federal employee organizations and these agencies in a collegial problem solving process which would develop alternative savings proposals. We asked employees and employee organizations to indicate which of the President's proposals were most burdensome. They indicated: first, the delay in the implementation of locality pay; second, the transfer of $700 million in health care costs from the Government to employees; and third, the reduction of the survivor annuity benefit.

Prior to the House action on the budget resolution, I had the opportunity to discuss the disproportionate impact of the President's program on Federal employees with OMB Director Leon Panetta, and he indicated some willingness to work with the subcommittee to address this issue. Shortly thereafter, Chairman CLAY, Chairman HOYER, Chairman SABO, and I agreed to include language in the report on the House budget resolution indicating that the administration and the Budget Committee would work with the appropriate authorizing and appropriating committees to "find accept-

able alternative methods for achieving budget savings so that locality pay shall be implemented in fiscal year 1994." This language, which was retained in the conference report, provided the mandate to develop major parts of the plan now contained in the reconciliation bill before us today.

This plan contains several provisions which produced enough discretionary spending savings to cover the cost of locality pay: first, payment of the locality pay adjustment is delayed each year for 6 months until July 1; second, the annual national pay adjustment is delayed 6 months until July; third, caps are set on the amount that can be spent for locality pay in each of the next 5 years; fourth, cash awards for employees are suspended for 5 years; fifth, the accumulation of annual leave by members of the senior executive service is capped; and, sixth, an additional 10,000 civilian positions are eliminated through attrition.

Mr. Chairman, I am gratified that the committee was also able to find direct spending alternatives which enabled us to avoid reducing the survivor annuity, limiting the child survivor annuity, and imposing a COLA cap and COLA reduction on retirees below the age of 62. Finally, the committee prevented a transfer to employees of $700 million of the Government's contribution to Federal employee health insurance premiums by reauthorizing the "proxy premium."

Even with these adjustments, our provision requires Federal workers to contribute considerably more sacrifices and savings than other Americans, including a pay freeze in 1994 and reduced raises for 3 years thereafter. A Herculian effort made by an unusual array of participants, however, has considerably relieved the burden.

The final package adopted by the Post Office and Civil Service Committee was the product of a model collective effort, with employee organizations, Government officials, and Members of Congress working closely together to help reorient the original proposals while achieving the large savings the President requested. It was a worthy goal. I am especially grateful for the cooperation that surrounded it and am proud of the participants who together produced the final product.

Mr. SPRATT. Mr. Chairman, this bill contains more spending cuts and more deficit-reduction than the American public appreciates. The bill also contains new budget process provisions that I suppose we should not expect anyone outside this institution to understand unless he or she happens to follow Congress and our budget process constantly. In 1991, as part of the Budget Enforcement Act, we capped discretionary spending through fiscal year 1995. Those caps have worked; Congress has kept discretionary spending beneath them. In the Budget Enforcement Act, we also set up so-called pay-as-you-go rules, which require that the expansion of benefits has to be paid for with new revenues or offsetting cuts; and that tax cuts must be revenue-neutral. Those rules have worked, and they are extended through 1998 by this bill. Over the next 5 fiscal years, discretionary spending will not exceed the level it reaches this year, and the cap on discretionary accounts will stop over $100 billion in spending that would otherwise occur.

In addition to carrying those rules forward, this bill plows new ground. Neither in Gramm-Rudman-Hollings, nor in the Budget Enforcement Act, did we try to cap entitlements. Entitlements are the source of the problem; the gaping hole in our budget process; the missing piece is the whole puzzle of the deficit.

My colleague, Mr. STENHOLM, and I set out to correct that omission. We began with provisions of a bill that Leon Paneta authored and filed last year. His bill established a baseline for entitlement spending and required Congress to reconcile to that baseline every year. I first modified that plan with a plan of my own that allowed for the baseline to be corrected each year for actual inflation and for actual growth in the beneficiary population. But I retained sequestration as a back-up to ensure compliance. What we have finally settled upon as a compromise in this bill is less than we set out to do, but it is significant. Because of the amendment we offered, this bill sets entitlement spending targets for fiscal year 1994–97, and it forces the President and the Congress to face up to the need for adjustments in direct spending if actual or projected spending exceeds the targets.

Here essentially is how the provisions work:

It budgets targets for entitlement spending, or direct spending for fiscal year 1994 through 1997. The targets come from the path OMB projects direct spending to follow from fiscal year 1994–97 as a result of this Reconciliation Act.

After each fiscal year, OMB will adjust the targets for legislated changes that conform to the pay-as-you-go rules and for changes in beneficiaries above the levels assumed. OMB will then determine how actual spending compares to the adjusted baseline. If actual spending exceeds targeted spending by more than 0.5 percent, the President has to recommend full, partial, or no reconciliation of the coverage, but he must make his case for less than full reconciliation.

The Budget Commission must then report by April 15 a budget resolution with a title addressing any overage reported by the President. if the President recommends reconciliation, the resolution must reduce outlays or increase revenues by at least as much as the President recommends. If the Budget Committee fails by April 15 to report a budget resolution with reconciliation for at least as much as the President recommends, any Member may move to consider the President's budget message.

If the budget resolution does not reconcile the entire overage, it must direct the Government Operations Committee to report a bill increasing the direct spending targets. The House must hold a recorded vote to increase the direct spending targets, and the House cannot consider the budget resolution until it has voted to increase the direct spending targets.

The House may not consider the conference report on the budget resolution unless the conference report fully addresses the coverages by raising the targets or reconciling the overages. The House also may not consider appropriations bills unless Congress has adopted a budget resolution conference report that deals with direct spending overages.

The goal of these provisions is greater visibility and accountability for entitlement spending. The accomplish these goals by budgeting entitlements by establishing spending targets, or a direct spending baseline; making the President and Congress face the need for entitlements reconciliation every year in the budget process; holding Congress accountable for how excesses in entitlement spending are dealt with by requiring a recorded vote on any action less than full reconciliation.

Mr. KLECZKA. Mr. Chairman, today the House will consider the President's deficit reduction plan and will make the most important vote of the year. We all are clearly aware the last election was about the economy, and that we need to act to put it back on the right track. Our future, and the futures of our children and grandchildren, are at stake.

The President has taken the lead in making deficit reduction and economic investment a priority, and House committees have approved and enhanced the President's recommendations. This reconciliation bill makes almost half a trillion dollars in deficit reduction in 5 years, the largest debt reduction legislation in history. The $496 billion in deficit reduction amounts to $1,984 in debt retirement for every man, woman, and child in the Nation. It begins to pay our bills. It improves our financial-standing.

We have heard much from opponents about the tax provisions in the bill, but spending cuts make up half of the deficit reduction achieved in the proposal. There are spending cuts in entitlements, including Medicare and Medicaid, Federal employee compensation, and agriculture. There is budget enforcement which requires that discretionary spending will be cut back below fiscal year 1993 levels, and then frozen at those levels each year for the next 5 years. This cuts spending by $102 billion, and spending cuts begin this year, not years down the road.

Mr. Chairman, taxes are never pleasant. Nobody like them, myself included, but you cannot help cut the debt fairly without them. The taxes in this package are fair. Wealthy individuals are finally asked to pay their share. Seventy-five percent of such new revenues will be paid by the top 6 percent of households. While tax rates for the well-to-do are increased, middle-class tax rates are untouched. Business perks, like deductions for club dues, are eliminated. Foreign corporations will pay their fair share of U.S. taxes. The Btu energy tax will affect many of us, but it is much more fair to each region of the country, and Wisconsin in particular, than a large gasoline tax. However, families with incomes below $30,000 would not be burdened by the Btu tax, since offsets from enhancing the earned income tax credit and other items would compensate for these costs. Again, this is a fair, balanced approach.

Also contained in this legislation are some important investment initiatives. Housing opportunities are improved with the mortgage revenue bond and low-income housing tax credit provisions. Job opportunities are available under the targeted jobs credit and the empowerment zones hiring incentives, and workers can upgrade skills under the exclusion for employer-provided education assistance provision. Small business incentives for capital formation include a capital gains incentive for new, long-term investment in small

business stock, and an expensing provision to help small firms acquire equipment and improve cash flow.

The progress on debt reduction made by this bill will be insured by tough enforcement mechanisms. Caps on discretionary spending are extended though, 1998 pay-as-you-go rules prevent new legislation from increasing the deficit, new provisions require action if mandatory spending exceeds estimates, and a new trust fund ensures all savings from this bill must only be used for deficit reduction.

Mr. Chairman, this package takes on the special interests and puts the Nation's best interest first. It breaks the gridlock and moves us forward. It does something, instead of just standing there. It will help put our economy back on the right track. Support the Budget Reconciliation Act.

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong opposition to this tax-and-spend plan, which contains so many fundamental flaws I almost don't know where to begin.

It taxes too much, and it spends too much. Worse, the taxes, like the energy and social security taxes, are unfair. They will slow the economy and create unemployment. In this plan, BTU stands for Big Time Unemployment.

The spending is also wrong. Not one government program—no matter how small—is eliminated. Finally, although there are claims of cuts, this bill raises the debt ceiling to almost $5 billion to pay for its spending over just the next 2 years.

This year, this body temporarily raised the debt ceiling. At the time, a senior Democrat made a statement that summarizes the philosophy in the tax bill. He said, and I quote, "Mr. Speaker, the bills have come due. It is time to raise the debt limit."

Well, the bills have come due. I think it is time to cut spending and pay them.

Defeat this tax and spend plan.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 2264, the Omnibus Budget Reconciliation Act.

This Budget Reconciliation Act is about making hard decisions. This Budget Reconciliation Act is about leadership, cutting the deficit, and getting the economy back on track. It is about reducing the budget deficit by $500 billion over 5 years. It is about the Congress and the President working together to tackle the tough problems, realizing that these are not "no-sweat" solutions as some try to term and trivialize the issue.

The sacrifice being asked of the people is for long-term gain instead of short-term political advantage. The vote today will have tangible real impacts. This Clinton budget pact is a specific and detailed plan to reduce the deficit and increase investment in American workers and families. It will only succeed in the final analysis with the support of the American people and Congress.

This budget law offers significant reforms and provides a sound policy path to establish new national priorities, restore greater tax fairness, invest in people, and reduce the deficit. It is clearly a radical departure and different from the tired, tried and failed borrow-and-spend policies of the past 12 years. The bill will freeze discretionary spending at the current fiscal year 1993 level, create an important new entitlement review mechanism, and establish a new deficit reduction trust fund. Half of the deficit reduction is to be achieved through spending cuts and the remaining half is to be achieved through revenue increases, all of which will be placed in the trust fund and pledged for deficit reduction.

The restoration of tax fairness is essential to restore credibility for the national government and the overwhelming majority of the taxes fall on those most able to bear the burden. The Congressional Budget Office found that 75 percent of the proposed taxes would fall on the 6 percent of the families that make over $100,000. Families making under $30,000 are, on the whole, untouched after the tax benefits and program improvements are calculated. In addition, vital programs whose extension has been long awaited are part of this bill, including the low-income housing tax credit, mortgage revenue bonds, targeted jobs tax credit, small issue industrial development bonds, among others. The bill also revises the passive loss rules, repeals luxury taxes, and increases deductions for small business equipment purchases. These and other strong provisions will have meaningful effects for our struggling economy.

Mr. Speaker, each committee has carefully examined and provided reconciliation actions for revenue increases, cuts in entitlements and other direct spending programs. Each of the committees on which I serve worked hard to meet our goals and make the tough choices in fees, premiums, and cuts. We need to pass this bill and move the process along to bring in line our skyrocketing fiscal deficit and to turn back the tide on the rising human deficit that we created simultaneously throughout the last 12 years.

I urge my colleagues to vote for this bill to pull us out of the doldrums of seemingly terminal gridlock here in Washington, DC; to put our economic house In order; and to move our Nation forward to a bright future, a future of hope, making the national government relevant and involved in addressing the problems facing the American people we represent.

Mr. SANDERS. Mr. Chairman, as the only Independent in Congress, I will vote today for the President's economic package, but with mixed feelings. It is not anywhere near as good as the program that I have fought for but, in terms of the needs of working people, elderly people, children, the poor, and veterans, it is far superior to what the Republicans are offering.

As most Vermonters know, I am opposed to the energy tax because ultimately it is a regressive tax which falls too heavily on those least able to pay higher taxes. I am also opposed to the tax increase that some middle-income Social Security recipients will be seeing as a result of Clinton's proposal. I have fought hard against both of these tax increases and, as the process continues on to the Senate, into conference committee, and back to the House, I will continue to fight to eliminate these regressive tax increases.

The truth of the matter is, however, that after 12 years of Reaganomics, a $4 trillion national debt, a $260 billion deficit, and a declining standard of living for middle-income and working people, something must be done to move this country toward a balanced budget and a fairer tax system. While very far from perfect, the President's budget proposal does this.

Here are the key points of the proposal:

First, the budget deficit will be cut by $500 billion over the next 5 years. The U.S. Government cannot continue to burden our children and grandchildren with an enormous national debt which will choke economic growth, continue exorbitant interest payments, and drive up interest rates. We must act to control the deficit, and the President's plan makes a serious effort to do that.

Second, while I have deep concerns about the regressivity of the energy tax and the increase in taxes on the top 20 percent of Social Security recipients, most of the President's tax raising proposal is, in fact, progressive. Given the reality that during the 1980's the rich became richer and saw a decline in their tax rates, it is absolutely appropriate that 70 percent of the tax increase falls on families earning more than $100,000 a year, and more than 60 percent falls on those earning more than $200,000 a year. I would go further, but there is no denying that this approach has a strong element of progressivity. According to figures that I have seen, those families with incomes from $40,000 to $50,000 would see a combined increase in taxes of about $275 a year. Those in the lower income categories would see a smaller increase.

Third, one of the most positive aspects of the President's proposal is a significant increase in the earned income tax credit, which will be helpful to all low-income workers—especially those with children. Given the fact that the United States today has the highest rate of poverty in the industrialized world for its children, this could be a very important step forward in improving that situation. Under Clinton's proposal, even with the energy tax, most low-income families with children will end up better off financially, with more disposable income. In other words, the earned income tax credit will more than offset the energy tax—making those families better off.

Fourth, also of importance, the low-income housing tax credit and mortgage revenue bond programs, which are responsible for creating hundreds of thousands of units of affordable housing, will be renewed. Small business people and farmers who buy their own health insurance will again be able to deduct from their taxes a portion of their health insurance premiums. The Food Stamp Program is being expanded to assist the million of Americans who have been hurt by the recession. Access to childhood immunizations will be greatly expanded. The assessment on dairy farmers is being lowered from 11.5 cents to 10 cents per hundredweight. And finally, this proposal protects disabled veterans from cuts in their disability compensation.

To my mind, the major weakness in Clinton's proposal is that he did not go far enough in raising taxes on the wealthy, cutting back in military spending, or eliminating various boondoggle projects such as the superconducting super collider, the space station and star wars. If he had, he could have created the revenues and savings to offset the need for the energy tax and the increased taxes on Social Security recipients.

The Republican alternative offered today would have been far worse for middle-income

and working people. Under the Republican proposal, there would have been no tax increases on the wealthy, which means that there would have been massive cutbacks in programs desperately needed by middle-income people, veterans, the poor, children, and the elderly. Under the Republican proposal, Medicare and Medicaid would have been savaged, causing enormous pain and suffering for the elderly and the poor. Social Security COLA's could well have been eliminated. Federal aid to education would have been slashed, raising property taxes and other State taxes. Food stamps, environmental protection funds, grants to college students and programs for low-income people would have been cut.

In other words, after 12 years of Reaganomics in which the rich got richer at everybody's expense, the Republican proposal would have balanced the budget on the backs of those people least able to afford it. That would not be acceptable to me or, I believe, the vast majority of Vermonters. And finally, despite all the Republican hype about deficit reduction, their proposal actually lowers the deficit significantly less than President Clinton's does.

Mr. ORTON. Mr. Chairman, I would like to take this opportunity to express my disappointment that the Rules Committee did not allow the amendment submitted by Representatives COOPER, MCCURDY, and myself dealing with amortization of intangibles.

Over the last few months, a number of Members including myself have tried to call attention to the negative impact of adopting a uniform 14-year amortization treatment of intangible assets. We have publicly acknowledged the intent of this legislative proposal, which is to provide clarification to an area that has been the subject of a great deal of dispute and litigation. We recognize the benefits of eliminating the need for costly appraisals, of ending disputes between taxpayers and the IRS, and of providing greater certainty for potential acquirers of businesses with substantial levels of intangible assets.

At the same time, we have been very concerned about the impact of this sea change in tax policy. For the first time, the tax code would allow deductions for goodwill. The purpose of allowing amortization of any asset is to properly match depreciating assets against revenues. Goodwill, however, typically does not depreciate—and certainly does not disappear over a 14-year period in the great majority of cases. At the same time, the 14-year period represents a significantly longer period than is appropriate for assets in many industries. In short, the change is significant and for many taxpayers inequitable.

Our concerns go beyond a mere distaste for accounting mismatches. Although this change does accomplish tax simplification, it also has significant implications in terms of economic policy. As currently drafted, the bill is inconsistent with the goals of the Clinton economic package. It provides tax incentives for paper transactions of large corporations, at the potential expense of small business development, job creation, and home ownership.

Before we enact tax incentives which could have a substantial effect on business decisonmaking, we should remember the economic climate of the last decade. Throughout the 1980's, we witnessed hundreds of billions of dollars of tax shelters and LBO's, transactions that were encouraged by tax policies in effect at that time.

In the case of amortization of goodwill, we could again set the stage for transactions designed to "game" the system through inventive allocations between tangible and intangible assets. The opportunity for this type of gamesmanship is very high in large, complex transactions.

Beyond these concerns, I also believe that lumping all assets into a 14-year life for tax purposes creates a framework that is simple, but not necessarily equitable as good tax policy. We should acknowledge that this change creates a number of winners and losers. The obvious winners are large corporations with substantial amounts of goodwill. Obvious losers include potential homeowners, many small businesses, computer software developers, and insurance agents. By significantly increasing amortization lives for assets in these industries, we are simply raising taxes, without having any real debate on the policy behind these changes.

This is why I am not happy that this matter was not considered either in committee or on the floor of the House. Amortization of intangibles was not a part of the President's economic package. It has consistently been represented as revenue neutral tax simplification. It was inserted in the reconciliation bill without fanfare. Due in part to the Newark Morning Ledger case, it has suddenly become a revenue raiser, in the amount of $2.1 billion over 5 years, according to the Joint Committee on Taxation.

I believe this should have been subject to greater debate and more careful consideration. Nevertheless, the practical reality was that this provision was going to be included in the reconciliation bill. Therefore, we have developed a compromise amendment which retains the benefits of tax simplification, provides a measure of equity for affected busineses, and averts the risk of reigniting a new round of leveraged transactions.

Our amendment includes a number of provisions. First, it provides for a shorter, 7 year amortization period for small business transactions. These are defined as any transaction under $5 million. I believe that this approach is a far more accurate treatment of the lives of intangibles created in small business transactions. Generally, anyone who purchases a small company does not expect the value of any premium they pay in excess of tangible assets to extend for a period as long as 14 years. Unlike conglomerates with brand names or huge advertising budgets, goodwill and other intangibles in a small business are usually depleted over a more rapid period.

Our amendment would also exclude purchase mortgage servicing rights from 14-year treatment. By increasing the amortization period for these rights, the reconciliation bill is in effect a hidden tax on homeowners. Since servicing fees are a component of mortgage rates, tax increases on servicing rights will probably be passed along to the homeowners in the form of higher mortgage rates. Furthermore, this restoration to current law treatment is eminently fair, since the value of the right to service any mortgage is clearly worthless once the mortgage has been paid off. Historical experiences of hundreds of billions of dollars of mortgages clearly establishes that average lives are in the range of 7 to 10 years, as opposed to 14 years.

Our amendment also restores fair amortization treatment for software product lines which are sold in a corporate acquisition. The average product life of software is closer to 2 years, and in current practice is generally amortized over a period of from 3 to 5 years. Fourteen year amortization is an extreme distortion which will tend to discourage the development and acquisition of promising new software applications. In cases where our domestic software firms are competing with foreign firms for the purchase of exciting new software products, we will be driving these technologies into the hands of foreign competitors. This would be tragic, especially since software has been one area in which this country has excelled.

Finally, our amendment would exclude customer lists of insurance agency/brokerage sales from 14-year amortization. Insurance in force has a fairly clearly identifiable average life, which is much shorter than 14 years. Our amendment would treat this asset more fairly, and provide safe harbors for allocation and useful lives to avoid costly appraisals and litigation with the IRS.

While these changes obviously provide for more favorable tax treatment for various industries, we realized that our proposed changes must be made in a way that does not lose revenues. Therefore, our amendment pays for these changes by providing a 28 year amortization period for all intangibles acquired in a transaction of $50 million or greater. This is only fair since many of these transactions will still enjoy favorable tax treatment arising from newly created amortization of goodwill. This longer life treatment would also remove a significant portion of the tax incentive for more leveraged buyouts.

I am not wedded to the specific details of this approach. Adjustments would be made to thresholds, and in fact should be made if they are necessary to maintain revenue neutrality. However, I believe that adoption of this amendment would represent a significant enhancement of the existing intangibles provision found in the reconciliation bill. I urge the Congress to take a careful look at this issue and ultimately to adopt our amendment or any reasonable alternative.

AMENDMENT TO H.R. , THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AS REPORTED BY THE BUDGET COMMITTEE

Page 1396, line 10, strike "14-year" and insert the following: "amortization"

Page 1396, after line 16 insert the following new subsection (and redesignate subsequent subsections and any references to such subsections):

"(c) AMORTIZATION PERIOD.—For purposes of subsection (a), the term 'amortization period' means—

"(1) 28 years if the aggregate purchase price paid in the transaction (or a series of related transactions) in which the intangible is acquired is more than $50,000,000,

"(2) 14 years if such aggregate purchase price is more than $5,000,000 but not more than $50,000,000, and

"(3) 7 years if such aggregate purchase price is not more than $5,000,000.

Page 1400, line 18, after "other computer software", insert the following: "and related rights"

Page 1400, after line 22, insert the following new subsection:

"(iii) exclusive rights to software developed as a product line which are acquired in a transaction (or series or related transactions) involving the acquisition of assets constituting a trade or business that regularly licenses, rents, or sells computer software in the ordinary course of business to customers.

Page 1401, line 2, before the period insert the following: ", and the documentation required to describe and maintain those programs

Page 1402, after line 19, insert the following new subsections:

"(8) MORTGAGE SERVICING.—Any right to service indebtedness which is secured by residential real property unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than rights described in this paragraph) constituting a trade or business or substantial portion thereof.

(9) INSURANCE IN FORCE AND INSURANCE EXPIRATIONS.—Any list of all insurance policy holders and any list of the expiration dates of insurance policies. In the case of the acquisition of a business the principal activity of which is the sale or brokerage of insurance policies, an allocation of basis to the items referred to in the preceding sentence shall be treated as meeting the requirements of this title if the basis allocated to such items does not exceed 75 percent of the basis allocable to the sum of such items plus all section 197 intangibles acquired in such transaction. The Secretary's regulatory authority under this subsection includes the authority to promulgate safe harbor recovery periods for useful lives consistent with industry practice and experience.

Page 1406, strike lines 20 and all that follows through line 10 on page 1407, and insert the following:

"(i) the taxpayer acquired such intangible from a related person who held such intangible on the date of enactment of this section and at all times thereafter before the acquisition of the intangible by the taxpayer,

"(ii) the intangible was acquired from a person who held such intangible on such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible on such date of enactment.

Page 1414, strike lines 17 and all that follows through line 4 on page 1416 [and redesignate the subsequent paragraph]

Mr. ENGEL. Mr. Chairman, I rise today in support of the Budget Reconciliation Act. The President has given us the opportunity to change our lives and the lives of our children for the better with a realistic and responsible economic plan. Change is never easy but we know where the Republican economic policies of the past 12 years have led us. Under the Republican Presidents we have had a crumbling economy, joblessness, an increased budget deficit, and a growing sense of despair felt by the majority of American citizens. We know that trickle-down economics do not work. We know you can not have something for nothing. Let us find the courage to make a change.

Getting the budget deficit down must be our top priority. Otherwise we are mortgaging away the futures of our children and grandchildren. Those who grandstand here and yell only for budget cuts, only want someone else's program to be cut. The fact of the matter is there are no easy answers and the deficit will not be reduced overnight. We have the opportunity to change our Nation's future tonight. We have a responsible and realistic program before us that asks the wealthiest Americans to pay their fair share, asserts that the working Americans should not live below the poverty line, and significantly reduces the Federal deficit, freeing up capital for investment in our Nation and the world.

Some people say this a difficult vote to take, but the Congress can no longer void the tough decisions that must be made to get our economic house in order. I am willing to take a tough vote in order to secure a better future for my constituents and our children. I urge my colleagues to vote for this bill.

Mr. FRANKS of Connecticut. Mr. Chairman, today the advocates of a government-run economy will try to make history by approving the largest tax increase our country has ever seen. Remember that the deficit was created largely by the Democrat-controlled Congress. My colleagues on the other side of the aisle have dominated House of Representatives longer than Castro has dominated Cuba. Now they intend to pay off their spending by taking $273 billion in additional taxes from the American people.

Back in 1990, then-President Bush took a ill-advised risk and supported some tax increases as a way to reduce the deficit. Congress took that new revenue and spent some more. I don't see any reason why this won't happen again. The same old spenders are still entrenched in Congress.

The Clinton plan, of course, is riddled with tax increases designed to lower the living standards of just about everyone. However, the worst two tax increases are the energy tax and the tax on Social Security benefits. The energy tax will cost the typical middle-income family about $450 a year. Of course, Americans will never be able to figure out which $450 it was, because the ripples from the energy tax are hidden in everything that we pay, not just heating fuel and gasoline. The energy tax will destroy 600,000 jobs over the next 5 years. Thousands of those jobs will unfortunately be lost in my district of Connecticut. While President Clinton talks about job creation, he supports Government actions which will put more Americans on unemployment.

President Carter was the last President to institute an energy tax. President Clinton, sitting in the Governor's chair in Little Rock, probably never had to sit in a gas line for hours. However, he must have had his savings eroded by the rampant inflation of the time. Why does the President commit himself to making the same mistake again today? Stop listening to the academics and actors, Mr. President, and start listening to the people who are doing something more productive for our country.

The President also sees an opportunity to take some money from his elders, and he's taking the opportunity. Nine and a half million senior citizens will pay an average of $483 a year more in taxes as a result of President Clinton's vision of change. Senior citizens did not give to the Government when they were younger assuming they would give more to the Government when they were older.

My constituents in Connecticut are expressing their dismay today about this budget. They do not believe that they will benefit from receiving less money in their paycheck. They do not believe that a bigger government can solve their problems. In fact, they see that government is going to make things worse. My constituents tell me that, at the very least, congress should "cut spending first." They know that the Clinton plan includes no net reduction in spending in fiscal 1993 or fiscal 1994. In fact, in its current form, not one government program is eliminated from the budget, not even the honey program. President Clinton has chosen to make all of his cuts in defense. He promotes military weakness abroad even as he promotes economic weakness at home.

I think my constituents would find their desire for deficit reduction satisfied if congress just cut spending. For this reason, and for reasons of common sense, I support the Kasich substitute to the President's budget. It achieves $394 billion in deficit reduction with real, specific cuts and no tax increases.

The advocates of the Clinton tax plan are complaining that the minority party here in Congress is not playing fair. After all, many of the Clinton budget supporters today crossed party lines to support President Reagan's budget in 1981. Well, President Clinton would have received a lot more support if he had introduced a budget plan that agreed with what he had campaigned on. Deceit never earned any friends.

I urge my colleagues to take a second look at the Kasich alternative. It is truly the right approach to deficit reduction. The other approach will result in unemployment, inflation, and recession.

Mr. BONILLA. Mr. Chairman, I rise in defense of the working men and women of Texas, especially the people of the 23rd District.

As we prepare to vote on the President's budget reconciliation package I must plead with my colleagues to look at the severe consequences of only one of the many tax components of the budget—the Btu tax. If passed, it could destroy up to 600,000 jobs nationwide; 37,693 in Texas; and 1,955 in the 23d District alone. And if that is not enough, this regressive tax will continue to hurt those low-income families who do not lose their jobs, but still have to pay extra taxes to drive to work, light their homes and buy their food.

Mr. Chairman, the 23d District of Texas cannot afford to lose close to 2,000 jobs. It cannot afford to lose two jobs. For this reason, I will urge my colleagues to put partisan politics aside and vote for the substitute budget which eliminates the Btu tax along with the other Clinton tax hikes. Although I do not agree with all the elements of the Kasich plan, I do agree with the basic premise of the plan: Cut Spending First and Quit Taxing Americans. Although it's clear this plan probably won't get the support it needs to pass, let's send a message to our colleagues in the Senate to have Government serve the American people and stop this effort to have people serve the Government.

Ms. VELÁZQUEZ. Mr. Chairman, I rise in support of this budget reconciliation bill and in

support of President Clinton's plan for the future of America.

I have been listening to the debate on the floor and in particular to the Republican rhetoric about how this plan will drive this country to ruin. Well, guess who got us where we are today? Under Republican rule, this Government cut taxes on the rich, eliminated investments in our cities and our people, and what did it get us—spiralling crime rates, millions of homeless Americans, ravaged communities and a loss of faith in the Government's ability to serve its citizens. And, in addition to this social deficit, their plan prompted an explosion of the budget deficit and the Federal debt. So today, President Clinton and the Democratic party offer a tough and balanced package to clean up 12 long, painful years of failed supply-side economics.

We have also heard our Republican colleagues complain about the tax provisions of this bill. What they have forgotten to mention is that 73 percent of the net tax increase in the legislation will fall on households with incomes over $100,000. We have heard our republican colleagues gripe about the wasted spending in this bill. What they have forgotten to mention is that the bill includes $75 billion in tax incentives for investment and jobs.

There certainly are parts of this legislation that I do not like. But, we must consider this reconciliation bill as a package, an investment package that carefully balances the needs and ambitions of our country for jobs, housing, education, and economic development with the reality of the bloated deficit. Therefore, we must come together and prove to the American people that we, as a Congress, can govern.

Mr. Chairman, I urge my Republican colleagues, if you are going to talk the deficit reduction talk, then walk the deficit reduction walk and support H.R. 2264, the largest deficit reduction package and most ambitious investment plan this country has ever seen.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. This legislation is the largest deficit reduction package in the entire history of the United States. H.R. 2264 includes measures which will help reduce the deficit by $500 billion over the next 5 years, balanced equally between spending cuts and revenue increases.

The American people have clamored for years for the Federal Government to end the gridlock; to end the war of words; to end the self-congratulatory political posturing on the issue of deficit reduction, and take serious action to address the problem.

Here we stand today debating legislation that, for the first time, will answer the calls of the American people, and enact responsible cuts in spending and raise additional revenues by restoring fairness to our Nation's tax system. Here we stand, just a few months after the inauguration of a new President, who embodies the spirit of change demanded by the American people, and who represents a new generation of leadership. Here we stand, before the American people, with the duty to enact a real deficit reduction bill, which contains a comprehensive plan of reasonable revenue increases, and spending cuts.

H.R. 2264, President Clinton's proposal, is the only responsible plan which has been introduced, and the only plan which will actually reduce the deficit.

Passage of H.R. 2264 will meet the basic goal set in President Clinton's economic agenda submitted in February, and in the congressional budget resolution adopted in April—deficit reduction of roughly $500 billion over a 5-year period. The legislation contains entitlement spending cuts, establishment of discretionary spending caps, savings realized from improvements in government debt management policies, and tax increases which fall predominantly on the wealthiest Americans and corporations. Also, the bill includes investment provisions to encourage long-term investments in small businesses, the prime engines of economic growth in our Nation. In addition, H.R. 2264 expands the earned income tax credit for low-income families to offset the effect of the new energy tax, and provides tax incentives for economically distressed areas to increase business activity and create jobs.

Mr. Chairman, I stand here today, representing the people of the 11th District of Ohio, the residents of the city of Cleveland, and suburban areas of Cuyahoga County. I know what my duty is to the men and women who sent me to the U.S. Congress to represent their interests. President Bill Clinton was elected by the American people because he promised a change from the failed policies, empty promises, and cynical rhetoric of the last dozen years. We all stand here today with the opportunity to fulfill the people's desire for change. I urge all my colleagues to stand with the President, to stand with the American people, and vote in favor of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993.

Ms. E.B. JOHNSON of Texas. Mr. Chairman, the legislation we will vote on today is probably one of most important and crucial tests we will face this year. I am ready for that challenge. We must be prepared to make the tough choices that are demanded of us. President Clinton has put together an economic package which will stimulate the economy and also bring down the deficit.

The American public endorsed the President's plan by electing him to office. They voted for a change in the way we are managing our Government's bank account.

This measure includes $75 billion in tax incentives to encourage investment in small businesses which we all concede is the best mechanism for creating new jobs. Many of these jobs would be in communities where individuals have low incomes. Overall the State of Texas would add approximately 10,399 new jobs in 1994. Personal income would also grow by $530 million in this same year if this package is passed.

I am from an energy-producing State, and I can tell you there are a lot of misconceptions about the impact of the Btu tax upon families. When the tax is fully implemented, the cost will be approximately $10 per person per month. The expansion of the earned income tax credit will more than offset this impact for low-income families. The structure of the Btu tax is fully consistent with a more progressive tax code.

The final results of the Btu tax will be to reduce energy consumption nationally by 7 percent, and reduce our dependence on foreign sources of oil in the year 2000 by more than 400,000 barrels per day. Even once the Btu tax is fully phased in, U.S. energy prices will remain the lowest in the G–7 countries.

I know critics of this bill will tell you that the Democrats are at it again. They want to tax you to death. What they will not tell you is that the majority of new taxes will be paid by families with $200,000 and over a year incomes.

Enactment of this bill will cut the deficit by $250 billion over the next 5 years. More importantly, it will be achieved through equal spending cuts and revenue increases.

I ask my colleagues to join with me in supporting the President in his valiant efforts to get our country moving once again because the entire country would reap the same benefits in job and income growth as the State of Texas.

Mr. KYL. Mr. Chairman, this tax bill does represent change: It is bigger than any other tax increase in the Nation's history—$332 billion in gross receipts over the next 5 years. Beyond that, it is business as usual.

Mr. Chairman, no Nation has ever taxed itself into prosperity. Higher taxes are merely part of a vicious cycle that leads to more Federal spending, higher deficits, more borrowing and higher debt, increased interest costs, and then higher taxes again. In the meantime, the economy suffers.

There is only one way to break the cycle: cut spending.

When George Bush agreed to the last tax increase in 1990, I thought he erred, and I said so. I did not go along for partisan reasons, and I do not believe partisanship should be the deciding factor on today's bill.

The American people want Congress and the President to do something about the Federal budget deficit. But, just as the first rule for a physician, when treating his or her patient, is to do no harm, so too should Congress avoid passing something, simply to demonstrate action, if it harms the American people in the process.

This tax increase will cause real and lasting harm. According to the nonpartisan Tax Foundation, the Btu tax included in this bill will put an estimated 969 people in my congressional district alone out of work. More than 6,300 Arizonans will lose their jobs as a result of the new Btu tax; 463,000 people will be added to the unemployment rolls nationwide as a result of this one tax increase alone.

And, the negative impact does not end with job losses alone. The Btu tax is estimated to cost the average family another $500 a year. That may not be significant for a President who pays $200 for a single haircut, but it is significant for millions of American families who are already struggling just to put food on the table, pay the rent, or save for their children's education.

This bill will increase taxes for nearly 10 million Social Security recipients, and that number will rise to nearly 14 million by 1998. The average senior citizen will pay an extra $483 the first year the Clinton tax increase takes effect. And, that is on top of the additional costs imposed by the Btu tax.

Overall, the Tax Foundation estimates that the average family will pay just over $900 in additional taxes a year under the Clinton plan.

The bill raises taxes on job-creating companies, including thousands of independent small

businesses. The higher income tax rates will discourage work, investment and savings, an encourage wasteful tax-sheltering activities. Companies cannot create jobs or pay better wages when money must be used to pay the tax collector.

When all of these new taxes ultimately choke off economic recovery, less revenue will flow to the Treasury than projected, and we will be confronted again in a year or two with calls for yet another tax increase. When will Congress learn to just say "no" to new taxes?

President Clinton assures us that the American people are willing to pay higher taxes if they can be sure the additional money will be used for deficit reduction. A lack of revenue is not the problem.

The deficit does not exist because the people are taxed too little, but rather because Government spends too much.

Let us take a look at just what is in this bill besides tax increases: $7.29 billion in additional spending for food stamps; establishment of a new $300 million annual entitlement program for emergency immigrant health services; COLA's, albeit reduced COLA's, for Members of Congress between 1995 and 1997; and $28.3 billion for expanded earned income tax credits.

There is more than a bit of irony in significant amounts of new spending in a deficit reduction bill.

In all, the ratio of net tax increases to net spending cuts in the bill is about four-to-one. That turns the President's promise of $2 in spending cuts for every $1 in tax increases on its head. And, it is questionable whether or not even the modest spending cuts in this bill will ever materialize. Ninety-three percent of the spending cuts in the President's budget are slated to occur, not now, but 4 or 5 years from now.

By now, the American people must be thinking that they have heard it all before, and they have. The bill is loaded with the same kinds of gimmicks that have appeared in deficit-reduction bills which have failed to do the job in the past.

For example, $8.8 billion in claimed savings from ending lump-sum payments for Federal retirees is achieved by shifting costs to future years.

Maybe it is because of a lack of confidence in all of the gimmicks that sponsors of the bill have also included provisions to increase the public debt limit to $4.9 trillion. That is an increase of $530 billion from the current limit of $4.37 trillion, and is expected to accommodate spending just long enough to last through the 1994 elections.

There are some good things in this bill, including passive loss reform, repeal of the luxury tax for most industries—it should be repealed for all industries—extension of the targeted jobs tax credit, the exclusion for employer-provided educational assistance, and small-issue manufacturing bond authority, to name a few.

But, the bad far outweighs the good, and the overall impact of the plan will be economic stagnation.

Mr. Chairman, I had sought from the Rules Committee the right to offer an amendment which would have attacked the deficit problem head on. It would have ratcheted down Federal spending levels as a share of gross domestic product, and enforced those spending limits with across-the-board spending cuts similar to those established by the Gramm-Rudman-Hollings law from a few years ago. No new taxes would be required to balance the budget in just 4 years.

Unfortunately, the Rules Committee chose not to make my amendment in order, and a majority of House Members went along with the Committee in adopting a rule that precludes virtually all amendments. That means no chance to improve a bill which, by the Clinton administration's own figures, will lead to a deficit of $400 billion by the year 2000.

Mr. Chairman, this bill is a prescription for bigger, not smaller, deficits as well as economic decline. The solution is less spending, not more taxes. I urge my colleagues to vote against this business-as-usual tax bill.

Mr. LIGHTFOOT. Mr. Chairman, I rise today to voice my strong opposition to this tax-and-spend package.

I have heard my Democratic colleagues say that it is showtime for President Clinton's tax-and-spend package. But I beg to differ with them. I think it is show and tell time. It is time for the Democrats to tell the truth about what is in this package and the effect it will have on the middle class, farmers, the deficit, and job creation.

My constituents are smart enough to see the truth. They have bombarded my office to express their thoughts on this tax package. At a rate of 15 to 1, they have sent a clear message: No more taxes—cut spending first.

President Clinton has tried to sell this fairytale tax package as a reasonable mix of tax increases and spending cuts. But there are $6.35 in new taxes for every $1 in spending cuts. The tax increases start immediately, some retroactive to January 1, 1993. The spending cuts will not take place for another 2 years. It is the same refrain: Tax now, spend now, cut later.

Particularly onerous is the energy tax which will cost 857 jobs in my district alone. Consumers will pay more for gas at the pump, more for the home heating costs, and more for utility bills. Because energy is needed for all goods and services produced in the economy, the energy tax will result in higher prices for everything we buy and will fuel the fire of inflation.

The energy tax will also have a devastating impact on agriculture production. This comes on top of a reduction of $2.9 billion in USDA farm programs. In their generosity, fuels used for farming has been allowed a partial exemption. However, ethanol, a clean burning, abundant, and largely renewable energy source which was previously exempted, is to be taxed at the top rate. What the right hand giveth, the left hand taketh away.

Last year, candidate Clinton said he was committed to putting people first. However, President Clinton's actions show that he is committed to taxing people first.

Mr. SMITH of New Jersey. Mr. Speaker, I am united with the Republican Members of the New Jersey Congressional Delegation in opposition to the Clinton tax package.

Today, I will be voting against the Omnibus Budget Reconciliation Act of 1993, since it contains a whopping $327 billion gross tax hike and a net $273 billion tax increase over the next 5 years. This will be the largest tax increase in the history of this Nation.

According to the Tax Foundation, New Jersey will be the second hardest hit State in the entire Nation—suffering a gross tax increase of $412 per capita annually. Of the promised deficit reduction, 87 percent comes from tax hikes, only 13 percent is spending cuts. Next year, taxes will increase by $35 billion but spending cuts will be less than $2 billion. That is $20.70 in taxes for every $1 in spending cuts.

This bill is front-loaded with tax increases. All the spending cuts, however, come in the out years. These may end up being phantom spending cuts that never materialize. Given the administration's practice of transforming its position on issues, the taxpayer had good reason to doubt the legitimacy of these future cuts.

In stark contrast to his ill-fated campaign promises, Mr. Speaker, the middle class will pay these new levies. The energy tax will add at least 8 cents per gallon of gasoline and raise the cost of nearly every product purchased. Middle-class seniors will see their Social Security tax jump from 50 percent to 85 percent and face an increase in the estate tax which will rob their heirs. Sadly, Social Security payback will now take longer than the average recipient's life span.

The energy tax increases will also have a devastating impact on our fragile economy. DRI/McGraw Hill estimates that the energy tax will cost 400,000 jobs by 1998. The National Association of Manufacturers has an even gloomier estimate, they predict 610,000 jobs will be lost and $38 billion in economic output will dry up. For New Jersey alone, the Tax Foundation estimates that we will witness the elimination of 14,206 jobs through 1998.

Mr. Speaker, in another abdication of financial responsibility, the tax increases are retroactive to January 1, 1993, yet the vast majority of the spending cuts are delayed into future years. Tax today, cut tomorrow, is the wrong philosophy. We cannot accept today's tax increases on the promise that spending cuts will materialize down the road.

In short, Mr. Speaker, the Clinton plan will entrench our economic problems, harm middle-class taxpayers, and further burden senior citizens. It must be defeated.

Mrs. MEYERS of Kansas. Mr. Chairman, today the House of Representatives will vote on the largest tax increase proposal in history—$332 billion over the next 5 years. I will not support this proposal, and I urge my colleagues to reject these tax increases which will only exacerbate our economic problems.

While the economy was on the upswing at the end of 1992—it expanded at a strong annual rate of 4 percent from July to December—since January we have experienced a slowdown. The latest bad news was the March merchandise trade deficit, which at $10.2 billion was the largest shortfall in almost 4 years.

The legislation we are presented with includes a new border tax on imported products that the Secretary of Treasury determines have an energy content of 2 percent or more. In an effort to offset the effects of the Btu tax on American business, the Ways and Means

Committee added this tax on imported goods to roughly match U.S. manufacturers' increased energy costs. But our trading partners will retaliate, and assuming that tariffs will be proportional, American business can expect to have about $1 billion in new tariffs slapped on American goods sold overseas. This tax, along with the Btu tax, will have a significant impact on American competitiveness—especially in the small business community. With our current trade deficits, we should be taking positive steps to help American businesses boost exports, and instead we are being asked to increase taxes.

I am also concerned with the increase in the regular individual income tax rate brackets to 36 percent and 39 percent, the surtax rate on incomes over $250,000. These increases fall not only on high-income individuals, but on many small businesses. Over 16 million of the Nation's 20-million small enterprises are organized as sole partnerships, partnerships, and subchapter S corporations. They pay individual, not corporate, tax rates. These higher rates will quash any planned expansion or the hiring of additional employees. Just yesterday I received a letter from a small businessman who said: "As an S corporation all profits are passed to me for taxation. This raises me personally to a higher bracket although most of the money I receive is put back into the company for operations. Higher taxes mean less profit for saving and investment and reduces my ability to withstand tough competition from the larger firms. Untimely, I would be forced to lay off employees."

Finally, we are forgetting history, where the lesson is clear. While I could cite other budget agreements, I will just mention one. The 1990 Omnibus Budget Reconciliation Act included a $164 billion tax hike and promised $500 billion in deficit reduction over 5 years. CBO now estimates a 5-year deficit total of $1.4 trillion, or $875 billion higher than promised.

Let us listen to the people. They want substantial spending cuts—before any taxes are increased. And, how many times do we have to learn the OBRA lesson? The Clinton offer of $332 billion in new taxes and promised spending cuts means we are walking down the same path taken in 1990. My constituents are saying it is time to change direction.

Mr. DREIER. Mr. Chairman, in addition to the largest tax increase in American history, I oppose the budget reconciliation bill because it will penalize nonprofit volunteer organizations. Nonprofit organizations care for our sick and homeless, and our young and old, saving taxpayers thousands of dollars each year in services that the Government might otherwise be forced to provide. Yet the budget reconciliation act contains a provision to increase the postage rate for nonprofit organizations by 28 percent over 6 years. This measure will have a devastating effect on nonprofit organizations. We need to consider the real world implications of our actions before we strike this blow to the volunteer organizations of America.

For example, the Los Angeles Mission cares for the hungry and homeless in downtown Los Angeles. This postage increase would raise their postage costs by an additional $483,783 each year. This amount would pay for 308,142 meals for the homeless, as well as 12 months of live-in rehabilitation for almost 100 people—including counseling, physical education, classroom study, job training, and recovery from addiction. What it all boils down to is that this postage rate increase means that a few more homeless individuals will have to go without food and shelter.

We need to craft an alternative that will not hit the volunteer community and their beneficiaries so hard. I urge my colleagues to vote against the budget reconciliation bill and work for a more reasonable alternative that will not devastate nonprofit volunteer groups.

Mr. DEFAZIO. Mr. Chairman, I will give my qualified support to the President's budget plan. There is a lot to recommend it. It represents the first honest attempt at deficit reduction we've seen in 12 years. It marks the end of Ronald Reagan's legacy of borrow-and-borrow, spend-and-spend.

The President has made a serious effort to grapple with the Nation's crippling debt. He has made an important first step in restoring fairness to the tax code by raising rates on the wealthiest taxpayers who saw their taxes slashed during the 1980's. In fact, 75 percent of the taxes in this bill will be paid by the wealthiest 6 percent of American families.

As I said, this is an honest attempt to reduce the deficit. But it contains a number of provisions that are very troubling to me. I've spoken with the President about my concerns and he has promised to work with me to address them. He knows that if my concerns are not satisfied, I will vote against final passage of this budget plan.

The most burdensome provision in this bill is the new tax on energy. It not only falls most heavily on working and retired people, it is especially hard on the Pacific Northwest. It taxes hydroelectric power, which provides about two-thirds of the Northwest's electricity, at the same rate as it taxes nuclear or coal-fired power. Hydro may not be the most environmentally sound energy source, conservation is clearly much better, but to equate hydro with nuclear power is ludicrous. I do not support the energy tax.

I am also very dubious about the need to increase the tax on Social Security benefits for retired couples earning more than $32,000 and individuals earning more than $25,000. Why are we raising taxes on Social Security beneficiaries when we refuse to make meaningful cuts at the Pentagon? Just yesterday, a majority of my colleagues voted to add $1.2 billion to the deficit in the form of brand new spending for the Pentagon at a time when the generals over there are sitting on a $50 billion bank account that they haven't spent.

I will work in the coming weeks to reduce this new burden on retired Americans.

My support for this bill is weak, Mr. Speaker, but on balance I believe we need to move beyond gridlock and begin the hard work of getting this Nation's fiscal house in order. I see no alternative but to move forward with this far-less-than-perfect beginning.

Mr. LEVY. Mr. Chairman, the tax increases in this legislation mean fewer jobs, higher prices and poorer taxpayers. This is not what the American people expect from their Government.

The proposed energy taxes will mean over 1,000 lost jobs in my district alone and over 31,000 lost jobs throughout New York State.

The energy tax will cost the average Long Island family almost $200 in direct costs. New York State businesses face $200 million in additional taxes which mean higher prices for consumers.

Adding insult to injury, the energy tax is indexed for inflation to guarantee higher taxes on businesses and families each year.

Mr. Speaker, the American people cannot afford more taxes. Our national economy, already weakened by years of recession, cannot be saddled with tax increases which will eliminate more jobs and take more money from taxpayers to pay for more Government spending.

I urge my colleagues to join me in opposing this measure.

Mr. BALLENGER. Mr. Chairman, the Clinton proposal raises over $355 billion in new taxes, the largest tax increase in U.S. history, as part of a plan to reduce the Federal budget deficit. The President and the Democrats raise new taxes without eliminating a single Federal program in the first few years of the plan. The plan includes a $71 billion energy tax and $32 billion in taxes on senior citizens.

According to several studies, the energy tax will cost the U.S. economy almost 600,000 jobs by 1998, and it will lower economic growth by $35 to $50 billion. The energy tax will raise the cost of practically every good and service that Americans produce, resulting in higher prices for consumers and making American workers and companies less competitive in the world market.

The average American family of four will pay an additional $500 per year in energy costs as a result of the energy tax, according to a study by the American Petroleum Institute. This is in addition to the $2,150 that the average household already pays each year in energy costs. A study by the Affordable Energy Alliance shows that a large number of the States' high-paying industries—mining, manufacturing, construction, and agriculture—use a lot of energy and will be the ones hardest hit by the tax. If the Clinton tax had been in effect in 1990, North Carolina residents and industries would have paid $714.8 million in additional energy taxes. The Alliance notes that a tax burden this large will slow the economy of the State, cost jobs, and make goods and services produced in North Carolina less competitive in world markets.

Consider for example the case of a company in my district, called the Timken Co. The Timken Co. is a leading international manufacturer of highly engineered bearings and alloy steels. If the proposed energy tax becomes effective, the direct cost impact on the company resulting from higher energy needs will be $5.6 million. To put that in perspective, the company's net income from worldwide operations amounted to only $4.5 milion in 1992. The energy tax will cost manufacturing jobs, and diminish the ability of energy-intensive industries like the Timken Co. to compete in the international market.

Clinton's plan will also raise taxes on Social Security recipients. Under current law, older Americans with a modest income, $25,000 for singles and $32,000 for couples, pay income taxes on up to 50 percent of their Social Security benefits. But under the Clinton proposal, seniors will pay taxes on up to 85 percent of

their benefits. This increase will raise $32 billion over 5 years. A study by a senior advocacy group shows that the average senior citizen will pay $483 a year in new taxes.

Finally, the President's plan will have a devastating effect on small businesses. According to information from the National Federation of Independent Business [NFIB], 80 percent of businesses in America pay taxes as individuals; not as corporate entities. The Tax Code also taxes the profits of a business, not what the owner takes home. This means that business owners are taxed on the money they reinvest back into their business. As a result, the Clinton tax plan will increase taxes for individuals, increase the tax burden on small business owners, and hurt economic growth and expansion.

Consider the following example:

A SMALL MANUFACTURER

Mr. Williams owns a manufacturing business. At the beginning of 1992, he decided to buy a new piece of machinery to expand his company's manufacturing capacity. In 1992, his business earns $1.5 million, and he purchased a new $500,000 machine.

This is how Mr. Williams spent the $1.5 million his company earned in 1992—

New machinery	$500,000
Other expenses and labor	890,000
Salary for Mr. Williams	110,000
Total expenses	1,500,000

The Tax Code requires business owners who purchase more than $10,000 worth of equipment to depreciate the cost of the equipment over a number of years. As a result, Mr. Williams will only be able to deduct part of the cost of his new machine in 1992. The rest of the cost of the machine will be included in his income. In 1992, Mr. Williams will pay tax on approximately $410,000 (his salary plus the cost of the machinery that is not deductible in 1992). This is how the President's proposed changes to the tax code would affect Mr. Williams:

Tax change	*Extra tax paid*
Increase in top rate from 31% to 36% (assuming he is married)	$13,500
Elimination of the HI wage cap	7,830
Limitation on personal exemption and itemized deduction	3,400
Income surtax	5,760
Total tax increase	30,490

Please note that the example I just cited does not include the burdensome impact of the energy tax.

The Kasich plan/Republican substitute offers an alternative vision for America. The plan reduces the deficit by $352 billion over the next 5 years and does not increase taxes or touch Social Security benefits. The Republican plan is based on the premise that the proper solution to spiraling deficits is to cut Federal spending. The Republican plan accepts certain fundamental ideas: that Federal resources are limited, that we must make the tough choices on spending priorities, and that unaccountable spending can not go unchecked.

The Republican plan makes tough choices and needed changes. Last year the American people made it clear that they wanted change. President Clinton has defined change as more taxes and more Government spending. House Republicans define change as cutting spending first, working to lower the tax burden on Americans, and eliminating outdated and wasteful spending programs. The Kasich plan deserves everyone's support.

Mr. WAXMAN. Mr. Chairman, there are many reasons to vote for this legislation, many of which have been noted by my colleagues this afternoon. I would like to call the House's attention to some provisions that have received less attention.

In my view, one of the most hopeful features of this budget package is the childhood immunization initiative. The Clinton administration has come forward with proposals to assure universal access for all American children to vaccine against such dreaded illnesses as polio, measles, and diphtheria.

This proposal will require that all insurance plans continue their coverage of vaccines and will provide free vaccine to children who have no insurance coverage. In addition, this will provide free vaccine to children who are Medicaid beneficiaries or who are Indians.

This initiative is essential for a number of reasons. The first and most obvious is to end any financial disincentives to immunization that parents may have. The cost of full immunization has risen dramatically over the past years because of a combination of new vaccines, excise taxes, and price increases. Indeed, in other parts of this bill, the House will be approving a necessary reinstatement of the excise tax which could prove a significant expense to some low-income parents. This part of the bill will allay that expense for many people. For whatever reason, parents have to dig deeper to get full immunization for their children.

Second is to eliminate incentives for the growing problem of private-to-public shifts for immunization. There are widespread reports of doctors in private practice sending their patients to public clinics to receive free vaccines. This practice has two disadvantages. It adds to the problems of short-funded and overwhelmed public clinics and it sometimes results in children falling between the cracks and who are not getting their shots at the appropriate time.

And third is to free up some Federal and State immunization dollars to be used for the infrastructure of services: more accessible clinics, longer clinic hours, more school nurses, more public health outreach workers, and so on. Without these services, no matter how low the cost of vaccines may be, immunization rates will never reach the desired levels. In addition to these freed-up funds, this bill also authorizes significant increases for these infrastructure services.

This package of immunization programs is the right place for us to start health reform. It starts with children, it starts with health reform, and it starts with universal access. I urge my colleagues to support this effort.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of the reconciliation bill.

The vote that we must cast today in support of the bill is not an easy one. Each of us is being called upon to make concessions and compromises we would prefer not to make. But it is the right thing to do. It is also what our constituents elected us to do. To make the tough decisions.

Our Nation is at a critical cross-road in its political and economic history. The deficit, which has grown at unprecedented levels over the past 12 years, must be controlled if we are to move toward the much-needed economic recovery. This bill provides a vehicle for that deficit reduction through targeted spending cuts and revenue increases.

More importantly, however, we need to send a clear message that we are moving in a new direction. We must prove to the public and the business investment community that we are willing to look to the future and abandon business as usual. This bill sends that message.

The reconciliation bill does not, and cannot, address all of our needs and concerns. But it is a positive first step forward that deserves your support. It is time for each of us to demonstrate the same courage and leadership as President Clinton in meeting this important challenge.

Mr. KENNEDY. My fellow Democrats, I am proud to rise to support President Clinton's deficit reduction plan.

First of all, President Clinton has presented to us the first credible plan to attack the deficit in the past 12 years. His plan will cut the deficit by $500 billion, split evenly between taxes and spending.

It is the most serious effort to attack the basic and fundamental problem facing our economy since I have come to Washington.

Nonetheless, we have heard that old saw trotted out by the opponents of the President—"tax and spend."

I offer no apologies for the taxes in this plan. Make no mistake about it, the wealthy—those who have found their incomes rising and their taxes shrinking in the 80s—will pay the vast majority of the taxes in this bill—75 percent of all the taxes will be paid by families making more than $100,000. This is absolutely fair, and I look forward to these changes.

We also do ask middle income Americans to pay some taxes. They will pay about $10 per month in energy taxes. Of course, this is tough. We all wish it was unnecessary. I do not want a tax on energy, either.

But the fact is, the deficit is a much more severe tax. It hurts our ability to compete, to invest, and to create good jobs. And our constituents have told us repeatedly they are willing to pay more, if the money goes to deficit reduction. And it will—the deficit trust fund ensures that.

The energy tax is broad-based and geographically fair. It will reduce our dependence on foreign oil, spur development of energy efficient technologies, and encourage conservation.

I agree with many of my colleagues who would like additional spending cuts included in this package.

But let's not get trapped by empty Republican rhetoric, here. There are lots of tough cuts in this package—$100 billion in discretionary cuts and $90 million in entitlement cuts. Discretionary spending will be frozen at 1993 levels for the next 5 years. Absolutely frozen.

This will bite and bite hard on education programs, job retraining programs, trade adjustment assistance, and a host of other programs important to many of us.

But the deficit must be brought under control.

The fact is, the Republicans have no credibility on the deficit. They created the problem.

They try to blame Congress. But the Congress spent billions of dollars less than two Republican Presidents requested.

The Republicans love the position they're in—without the White House in Republican hands, they don't even try to act responsibly. They can do what they like doing best—obstruct progress, throw stones, build roadblocks.

But we must move forward.

We cannot oppose this plan because we do not agree with every provision.

We cannot vote "no" because the plan is not perfect.

No vote to raise taxes and cut spending is an easy vote. But it is a vote we must cast if we want to get the deficit under control and the economy on the road to building high-paying, high-value added jobs.

Mr. SPENCE. Mr. Chairman, I rise in opposition to the Omnibus Reconciliation Act of 1993 for many reasons that will be articulated by my Republican and Democrat colleagues today—the largest tax increase in history, severe defense cuts, and continued growth in domestic spending and entitlements.

As the ranking Republican on the Armed Services Committee, I rise in specific opposition to the legislation because of the unfair and damaging burden it places on the military community—military personnel, families and retirees.

Last year, candidate Clinton declared, "First let's provide for a strong defense. Then we can talk about defense savings." Now, under the questionable notion of treating all Federal civil servants equally in the name of deficit reduction, it's clear to me that a strong defense and concerns for military personnel are not high on the President's priority list.

First the President, then the Budget resolution, endorsed a military pay freeze in fiscal year 1994, a reduction of military COLA's in the outyears, and a reduction in military retiree COLA's. Republicans on the Armed Services Committee unanimously rejected the Budget Committee's approach to military pay and retiree COLA's, and I do not imagine that the position most of my Republicans colleagues adopt today will be any different.

First, unlike the President, and many of my colleagues who voted for the Budget resolution, I do not consider militarv personnel the same as all other Federal civil servants. The military is not a 9 to 5 job. It's a 24-hour-a-day, go anywhere at a moment's notice lifestyle that demands daily sacrifice of all who serve, and their families as well. Therefore, I disagree with the notion that they ought to share my deficit reduction burden equally with other Federal civil servants. Who here honestly believes that military personnel and their families do not already share in the pain? For the doubters, let me give you a few specific examples from the hundreds that come across my desk:

There is the marine staff sergeant who is married with two children. In less than 4 years, he has spent 759 days deployed away from his family.

Next is the Army captain. He is also married with two children. In the 18 months, this family has been forced to move three times: From Germany to Oklahoma to New York. Due to moving expenses not reimbursed by the Government, family finances are drained. His wife is unable to find work at the new duty station. The captain is frequently away on training deployments. Both the captain and his wife are now in marriage counseling. Recently the captain learned that he had been passed over for promotion and faces an unexpected separation from service.

Or then there is another marine staff sergeant. He's married with three children. The sergeant has been deployed away from home 21 of last 40 months. He's missed 21 major holidays, 5 birthdays and 2 Christmases with his family. He says, "One thing is for certain—returning from a deployment, hugging your kids and having them cry because they don't know you tears your heart out, and makes you wonder if it's all worth it."

Second, even if I agreed that the President's idea of shared sacrifice by all Federal civil servants was logical, I contend that defense is the only component of the Federal budget that has been, and under this administration will continue to be, contributing to deficit reduction.

For example, under the fiscal year 1994 Budget resolution, non-defense discretionary spending actually grows by $30 billion over the next 5 years above and beyond the rate of inflation. From essentially the same inflation-adjusted baseline, defense spending will be reduced by over $180 billion. These Clinton cuts follow 8 consecutive years of real decline in defense spending under Presidents Reagan and Bush. How the disconnect between these numbers can be construed as an equitable sharing of deficit reduction efforts is beyond me.

Third, I believe that to cut military pay and tamper with retiree COLAs is to meddle with critically important recruiting and retention incentives. As noted in press reports yesterday, all the military services are already experiencing difficulty attracting quality recruits. For example:

Army recruit quality recently hit a 10-year low. On average, recruit quality for all services is the lowest in 3 years.

Even during a time of relatively high unemployment, the number of young people who say they are likely to join the military services has declined to its lowest levels in several years.

As the Army Personnel Chief recently told the Armed Services Committee regarding recruiting, "I see no good news on the horizon."

Fourth, in terms of pay, most military members are ordinary, middle-class citizens—a group Candidate Clinton promised to protect. For example: 70–80 percent of all enlisted people earn less than $30,000 per year; 50 percent of enlisted people in the Army, 46 percent in the Marine Corps, 26 percent in the Navy and 18 percent in the Air Force earn less than $20,000 per year. Of these, 118,000 are minorities, 112,000 have families and 6,500 are single parents.

Therefore, the Clinton pay cuts in this omnibus reconciliation bill break faith with the military and with America.

Fifth, military pay already lags behind inflation and civilian wages. In the past 10 years, military pay has fallen 7.8 percent behind inflation and 11.7 percent behind civilian pay. If this reconciliation bill is enacted, military pay will lag 21 percent behind the civil sector. I remind my colleagues that in the late 1970s inadequate pay—coupled with increasing duty requirements—caused quality people to quit the military, or not to join at all. The force became hollow. It took over a decade to build the All Volunteer Force we all saw perform so well in the Persian Gulf following the apathy of the late 1970s. We ought to learn from our costly mistakes of the past.

Finally, reducing the retired pay of military personnel while simultaneously forcing early retirements due to the on-going defense builddown imposes a double penalty on dedicated service personnel. Thus, any claims of savings attributable to savings in retired pay will be more than offset by costs incurred in human terms.

I urge my colleagues to reject this bill. If my words do not persuade you, perhaps those of a Marine Corps sergeant will. According to the sergeant:

> For 2 years, 1988–1990, I spent only 35 days in port with my family. Then, I deployed, to Saudi Arabia. Deployments to Panama, Okinawa and Somalia followed. Of the year 1992, I was only home 4 months. I am a stranger in my own home. My children know me by pictures on the wall. The Marine Corps is my life. The Corps and my family are all I have in this world.

Mr. Chairman, this dedication and sacrifice ought not be penalized. I believe that the legislation before us today breaks faith with military men and women, past and present. I strongly urge my colleagues to vote "No" on final passage.

Mr. GALLO. Mr. Speaker, I rise today in protest of the proposed tax hike on senior citizens. The system was designed to protect retirees from unfortunate economic circumstances that could shatter their later years. Citizens pay taxes into a trust fund during their working years and they, or members of their family, later receive monthly benefits. The system was designed to provide a safety net guaranteeing an additional source of income for citizens who retire or become disabled.

I am dismayed that President Clinton recommended, and the House Committee on Ways and Means approved, a measure to raise taxes on 10 million seniors by taxing up to 85 percent of Social Security benefits—a 70 percent increase in the amount subject to tax. In effect, this tax increase eliminates the 3 percent cost-of-living adjustment for those seniors who have saved and planned for the retirement.

It is especially outrageous that taxes which come from this increase are going directly into the general fund—not into the Social Security trust fund as has always been the case in the past. This raid on the Social Security trust fund and disproportionate tax on senior citizens is unconscionable. We are creating a system that is unfairly burdening the seniors by expecting them to disproportionately sacrifice to balance the Nation's budget.

Mr. Speaker, these are very difficult times for all Americans, and our seniors in particular are feeling the squeeze. This additional tax on seniors, that will be spent by Treasury on other unnamed programs, will raise $32 bil-

lion—nearly 10 percent of the total $330 billion in new taxes Mr. Clinton wants.

And it doesn't end there, Mr. Speaker. The ever-increasing tax, coupled with recent cuts in Medicare and Medicaid, threatens the viability of insuring even a nominally decent standard of living for our elderly and disabled.

Mr. Speaker, let's protect our seniors—vote no on this bill.

Mr. HORN. Mr. Chairman, I rise in opposition to the passage of the largest tax bill in American history. Besides the plethora of taxes which are about to be levied by the majority party on millions of American citizens, perhaps the most onerous on the average citizen is the so-called Btu or energy tax.

Today's issue of the Los Angeles Times has an excellent article by Times staff writer James Risen entitled "Energy Tax Foes Cite Its Impact on Middle Class." I commend this article to my colleagues and to taxpayers generally. For the average driving Californian, some of whom drive 130 miles or more a day to get to and from work, the full impact of this energy tax in mid-1996 will raise the price of gasoline about 8 cents a gallon.

Attached is Mr. Risen's analysis. Equally fascinating is the list of those interests excluded from the full impact of the tax. The working Californian is not among them.

[From the Los Angeles Times, May 27, 1993]

ENERGY TAX FOES CITE ITS IMPACT ON MIDDLE CLASS

(By James Risen)

WASHINGTON.—When President Clinton took to the radio waves last weekend to attack the critics of his energy tax, he argued that his foes—including members of his own party—were tools of the "big oil lobby."

Seeking to regain his populist footing, Clinton complained that oil producers were "trying to wiggle out of their contribution to deficit reduction" by seeking to strip the energy tax from his budget plan.

But a close look at the proposed energy tax—now at the center of the congressional debate over Clinton's program—shows that it was not designed by the Administration to soak Big Oil, but to hit consumers.

Without doubt, Big Oil wants to kill the tax. After all, if Americans pay higher taxes on energy, then they will eventually consume less, and that would mean less demand for the oil, gasoline and other products that the industry sells. "This tax is very threatening to the supply side of the energy industry, because you will see less consumption," says Jim Wolf, executive director of the Alliance to Save Energy.

Yet spreading opposition to the tax in Congress demonstrates not only the skills of a handful of oil lobbyists, but also the realization by moderate Democrats that the energy levy packs the single biggest wallop on the middle class of any of Clinton's tax proposals.

Congress estimates that the tax will raise $71.5 billion over five years, and even the Administration's own conservative projections show that it will add more than $200 a year to the tax bills of a family earning $40,000 annually.

As a result, anxious lawmakers know that the energy tax more than any other element of Clinton's program represents a repudiation of the President's campaign promise not to raise taxes on the middle class to pay for his agenda.

Given that background, centrist Democrats from Midwestern states and other areas with little interest in the oil industry have joined with oil state legislators to form a coalition against the provision.

Clinton Administration officials always knew the energy tax, also known as the BTU tax, would be the most difficult sell of their economic package. Privately, officials concede that one reason they chose an energy tax was that it was less visible, and less understandable, to the average consumer.

"One of my colleagues said that he is trying to convince people that it is a tax on the British," quipped Sen. John B. Breaux (D-La.), a key moderate on the tax-writing Senate Finance Committee, where the energy tax will face its greatest legislative challenge. BTU stands for British thermal unit, which measures the energy content of various fuels.

But now, congressional critics say, voters have figured the tax out, especially since Clinton agreed under congressional pressure to allow utilities to automatically include the federal energy tax as a line on home heating bills. To avoid such high visibility for the tax, the Administration had originally proposed that utilities would have to win approval from state regulatory agencies before they could include the tax on consumers' bills.

"The problem many people have with it is political," Breaux said. "I think the original idea was most people wouldn't know what a BTU tax was, so you could get it passed.

"Everybody knows what a gas tax is; you can see it. But when people start realizing that a BTU tax is a gas tax, and when they realize that they are going to see it on their utility bill every month, and when they realize they are going to see it in everything they buy, I would suggest that it's not the best way to go."

Now that voters think of the tax in those terms, the Administration is finding that its populist attacks on its opponents ring hollow—much as Clinton's gibes at Republicans over the Administration's economic stimulus package earlier this year failed to garner much grass-roots support for the program.

Instead, many voters believed that the stimulus was pork; now many believe the energy tax will not result in real deficit reduction.

The Administration "didn't listen to us with the stimulus package—they said take no prisoners, no compromise and they went right down to the final cup of Kool-Aid," says Sen. J. Bennett Johnston, (D-La.), chairman of the Senate Energy and Commerce Committee and a leading opponent of the energy tax.

House Minority Whip Newt Gingrich (R-Ga.) said Wednesday that moderate Democrats rebelling against their President are "responding to people back home who are calling them and saying: 'Don't raise the tax on energy; don't raise the tax on driving to work; don't raise the tax on heating and air conditioning; don't raise the tax on agriculture.' This is a grass-roots, back-home effort by real people."

What's worse for the Administration, the White House itself has been in the vanguard of wheeling and dealing with industry lobbyists on the energy tax since February, offering a costly series of exemptions and other changes to gain critical support.

Those deals became so pervasive that the basic tax rate on consumers had to be raised in the tax-writing House Ways and Means Committee to make up for the lost revenues. For example, the Administration's original proposal would have raised the gasoline tax at the pump by 7.5 cents a gallon by 1996; now the tax increase will peak at 7.6 cents.

The Administration had all but invited lobbyists to seek further exemptions and other changes in April, when Treasury Secretary Lloyd Bentsen said that the energy tax was being structured to ensure that it ultimately would be borne by the consumer, rather than the energy producer. "The Administration," Bentsen wrote at the time, "is continuing to explore methods of assuring that the tax is in fact passed through to those who use the energy."

But Bentsen's willingness to deal on the energy tax led to more and more dealing in the House and Senate; now even House Speaker Thomas S. Foley (D-Wash.), who must lead the fight for the tax today in the House, has won a special exemption for aluminum producers who use hydroelectric power in the Pacific Northwest.

Other exemptions were given for ethanol and for fuels used to power farm equipment, although farmers were denied other exemptions they sought. A tax on heating oil was reduced in an effort to shore up support among lawmakers from the Northeast, where many homes use the fuel in winter.

"The BTU tax has become a textbook example of special interest politics at work," wrote Doug Bandow, a tax analyst with the Citizens for a Sound Economy, a conservative Washington think tank.

Those loopholes have eroded the ability of the Administration and the congressional leadership to argue for the tax on populist grounds.

TAX BILL WOULD HIT BIG INCOMES, ENERGY-USERS

A summary of the deficit-reduction bill that will be considered today by the House:

INDIVIDUAL TAXES

Income taxes: Raise the 31 percent top tax rate to 36 percent and add a 10 percent surtax for taxable income above $250,000. Retain current 28 percent maximum tax on capital gains. Tax up to 85 percent of Social Security benefits of single people with total income over $25,000 and couples over $32,000.

Medicare tax: Subject all wages to the 1.45 percent Medicare tax; none above $135,000 is taxed now.

Energy tax: Tax most fuels on basis of heat content. When fully effective in mid-1996, this would raise gasoline about 8 cents a gallon and a typical home electric bill by $2.25 a month.

Low-income families: Expand the earned-income tax credit, which now benefits poorer working families with children, and allow some benefit to childless couples, to offset the energy tax.

Luxury taxes: Repeal the special levy on expensive planes, furs, yachts and jewelry. Keep the 10 percent tax on high-price cars but each year raise the $30,000 threshold above which it applies.

BUSINESS TAXES

Corporate rate: Raise 34 percent top corporate rate to 35 percent for taxable income above $10 million.

Deductions: Prohibit deduction of most club dues and lobbying expenses and half of business meals and entertainment. Bar a corporation from deducting pay above $1 million for an executive.

New machinery: Allow small businesses to write off in one year up to $25,000 of machinery purchases.

SPENDING RESTRAINTS

Medicare reductions: Save about $50 billion, largely by trimming reimbursements to doctors and hospitals.

Medicaid: $8 billion in cuts.

Federal retirees: $11 billion in lowered benefits for federal retirees.

Student loans: Save $4.3 billion by having government make direct loans to students instead of funneling money through banks.

SPENDING INITIATIVES

Food stamps: Boosts program by $7 billion.

Immunizations: Provides $2.1 billion for immunizations for poor children.

Mr. GALLO. Mr. Chairman, the budget reconciliation bill that has been reported to the House will, if enacted, devastate the American economy and frustrate the American people—the people who want change in Washington, not change left in their pockets.

The message I have been getting loud and clear from my constituents—and I am sure most of you have been hearing the same thing—is cut spending first.

Instead, we are presented with a reconciliation bill that guarantees to raise taxes first, and only promises modest spending cuts later—2 years later. We've been down this path before, where we promise the overburdened taxpayers a rose garden, but in the end, they just get stuck.

I would invite my colleagues who are considering voting for this record tax increase to take a look at an on-going experiment that is taking place less than 150 miles from here—in the State of New Jersey.

In early 1990, Governor Florio proposed what was, at that time, the largest State tax increase in the history of the Union—$2.8 billion in new taxes. The Governor claimed that this was tough—but necessary—medicine, designed to put the State's financial house in order and promote prosperity throughout New Jersey.

The Governor's Democratic colleagues in the State legislature—in control of both houses—followed the Governor's lead and enacted the record-setting Florio tax hike. They claimed they were striking a profile in courage and that history would prove them right.

Well, Mr. Chairman, history has taught them a valuable lesson, but it is not the one they wanted to learn.

The New Jersey economy, already troubled, was sent into a tail spin. Jobs started to flee New Jersey and they continue to hemorrhage. My State's unemployment rate has risen to 9.1 percent, more than doubling under the weight of the Florio tax hikes. New Jersey's unemployment rate is the highest of the 11 leading industrial States. While New Jersey continues to bleed jobs, our neighbors—who did not resort to courageous take hikes—continue to add jobs.

The people of New Jersey took advantage of every opportunity available to them to let their State representatives know exactly how they felt, culminating in an election day rout that turned Democratic control in both houses into veto-proof Republican majorities.

This House, Mr. Chairman, does not have to repeat the mistakes made in New Jersey. We have direct evidence that the tired old policy of tax and spend does not work. It did not work there and it will not work here.

What we need to do, Mr. Chairman, is cut spending first. The Republicans, under the able leadership of my hard-working colleague from Ohio, presented an alternative to the President's plan that does just that. Let's compare the two:

Our plan does not raise taxes—his raises a record $332 billion in new taxes;

Our plan does not include any new spending—his contains $172 billion in new spending;

Our plan has $394 billion in net spending cuts—his has barely more than a third of that;

Our plan does not increase taxes on Social Security benefits—his does to unprecedented levels and, for the first time ever, diverts the revenue to the general fund, not the Social Security trust fund;

Our plan achieves $476 billion in deficit reduction, without raising taxes or raiding Social Security;

Our plan responds to the American people's call to cut spending first—his breaks faith with the people who want change, not more tax and spend, tax and spend.

Mr. Chairman, I urge my colleagues in the strongest possible terms—resist this invitation to nationwide economic disaster. Oppose the budget reconciliation bill.

Mr. KING. Mr. Chairman, I rise today to once again voice my opposition to the Clinton economic plan. It is my strong conviction that this economic package, with its recordbreaking tax hike and its unheard of new levels of Government spending, will spell disaster for the economy.

The President's package is nothing but a return to discredited, liberal Democrat tax-and-spend policies. These policies have been proven by history to be ineffective, wasteful, and deleterious. There is not a single instance in recorded history of a tax hike spurring economic growth. Those who do not learn from history are condemned to repeat it.

The President won election masquerading in the guise of a new Democrat. Over recent weeks, layer after layer of his disguise has fallen away as the voting public got a closer look at President Clinton's economic package. President Clinton is no new Democrat—he appears addicted to that party's old-fashioned creed of big government, big taxes, and big spending.

What are we being offered? Huge tax increases, a new Btu-based energy tax that will tighten the tax grip on middle—income families, stealth deficit reduction, and phantom spending cuts.

Those of us in the House who are opposed to the President's plan, because we understand how hard it will hit the taxpayers and how it will ruin our economy, have been accused of promoting gridlock in our effort to stop this disastrous plan. We are standing up for the American taxpayer and for what we know to be the right course of action.

The President's jetset, Hollywood crowd may be enamored of big tax hikes and big spending, but the hard-working people of my Long Island district certainly are not. The other night, a constituent from the village of Manhasset, in my Third Congressional District, phoned to voice his opinion on today's vote. All he said was, "don't do it." I don't intend to.

Mr. PENNY. Mr. Chairman, the public debate raging in this country about the role of Government, the responsiveness of public institutions, and the size of our Federal debt, are joined in the debate on the budget reconciliation measure before us today. The American people have been rightly critical of the inability of the Congress and the President to responsibly resolve the deficit in recent years. While gridlock gripped Washington, the American people struggled with the consequence of our inaction.

1992 brought a new President dedicated to making Government work—dedicated also to reducing the budget deficit. While we can be critical of his handling of this measure, I believe the President has not been given sufficient credit for putting before the country the very real and painful choices that are necessary to reduce the budget deficit.

Some here do not like the President's priorities and have suggested alternatives. Others among us continue to talk about deficit reduction as if solutions will appear out of thin air. Well, the choices are tough, very tough. I doubt if any Member of Congress truly likes this measure; there are no cheerleaders for higher taxes and program cuts for their own sake. But eliminating the deficit requires taxes and cuts. Those are the choices—and they are difficult for all of us.

I had hoped this bill would contain more cuts, less taxes, and more deficit reduction. But, as Benjamin Franklin once said, "He that lives upon hope will die fasting." At some point, consensus among the alternatives must be reached. And what we have before is not perfect, but it is the best we can do at this time and it is certainly preferable to doing nothing.

Let me just speak briefly to the bill because there are a number of important provisions. The entitlement cap in this bill, which I helped to negotiate, is unprecedented. For the first time, a process is established for reviewing the growth of mandatory spending programs, which together represent almost one-half of all Federal outlays. For too long, one-half of all spending has been on automatic pilot, unrestrained by the annual budget process. With the passage of this bill, that will change. Both the President and the Congress will now be forced to propose changes to entitlement programs to rein in their growth. That is a very important reform. It will lead, I believe, to real long-term deficit reduction. It will force the Congress in the future to face the deficit issue squarely and honestly.

The extension of the discretionary budget caps in this measure—the only real brake on the growth of Federal spending since 1990—is also an important reform.

This measure contains nearly $500 billion in real deficit reduction over the next 5 years. With tough enforcement provisions on entitlement and discretionary spending law, real long-term deficit reduction will occur.

Someone once said "It is natural for man to shut his eyes against a painful truth * * *." Today, we open our eyes and make a few tough decisions. I urge my colleagues to join me in supporting this measure.

Mr. MONTGOMERY. Mr. Chairman, the budget resolution instructed the Committee on Veterans' Affairs to recommend savings totaling $2.58 billion over the next 5 fiscal years. Title XII of the bill we are considering today contains the provisions proposed by our committee. In brief, these provisions would make the following changes in laws under our committee's jurisdiction:

No COLA in fiscal year 1994 for old law DIC recipients. The CBO baseline assumes a 3

percent COLA. This proposal would commit the Congress to maintaining for 1 year the old law DIC rates at the level they were at when the DIC reform bill took effect on January 1, 1993.

Pensions—Medicaid nursing homes. Current law authorizing VA to reduce the pension of a single veteran who is eligible for Medicaid benefits for the cost of nursing home care expires on September 30, 1997. This change would extend the expiration date through September 30, 1998.

Pension income verification. Current law authorizing VA to verify through IRS income reported by veterans for means-tested benefit programs expires on September 30, 1997. This change would extend the expiration date for an additional year.

Reduce 1994 MGIB COLA by 1 percent. The COLA is expected to be 3 percent. This change would reduce it to 2 percent.

Chapter 35 dependents restriction. This provision would terminate eligibility of persons who are not the natural or adopted children of the veteran as of October 1, 1993, and who have not previously received benefits under this chapter.

Medical care reimbursement. This provision would extend the August 1, 1994, expiration date on VA's authority to collect from service-connected veterans for their non-service-connected care to September 30, 1998.

Bill for service-connected care. This change would authorize VA to bill third parties, principally insurers, for treatment of a veteran's service-connected disability through September 30, 1998.

Drug and other copayments. This provision would extend the September 30, 1997, sunset date on the authority to collect the $2 prescription copayment and other per diem charges for higher income veterans for an additional year.

Home loan fees. This change would, generally, increase home loan fees by three-fourths of 1 percent on new guaranteed loans through September 30, 1998.

Include anticipated resale losses in no-bid formula. This provision would extend the change in the no-bid formula enacted as part of the VA's appropriation act last year through September 30, 1998. This change increases the number of no bids by requiring VA to take into account the average loss on the resale of a property.

Should this bill be enacted into law, savings in veterans programs would total $2 billion, $591 million during the next 5 years.

Mr. Chairman, our committee has been targeted for savings under all reconciliation bills and has never failed to comply with the instructions of the House and Senate. It has been difficult at times to do so. All of the so-called easy cuts were made years ago. The reductions contained in this bill will be felt by many veterans and they won't like it. At the same time, some Members are saying that the reductions contained in this bill are not enough. Veterans do not feel that way nor do those affected by other cuts contained in this bill.

Some veterans organizations have expressed their opposition to certain savings contained in this bill, especially the provision that would authorize VA to bill third-party payers for care of service-connected conditions provided to veterans who have insurance.

As I said before, there is no easy way to achieve $2.6 billion in savings. Any veterans program we cut, or any fee we impose, will be objectionable to some veterans. We have done the best we can to achieve savings where it would have the least adverse effect.

Under current law, VA is authorized to collect from insurance companies for care provided to veterans for nonservice-connected disabilities. That authority was granted in a previous reconciliation bill and since its enactment the VA has collected almost $1 billion. Section 12003 of the reconciliation bill would expand VA's authority by permitting third-party collections for the care and treatment of any disability. The VA would have the right to recover or collect the reasonable cost of such care or services from a third party to the extent that the veteran or a private health care provider would be eligible to receive payment for such care or services. The veteran would not be required to pay anything.

It should also be noted that we are not requiring insurance companies to provide coverage for service-connected disabilities. This provision would only affect cases where the insurer covers a veteran for care of service-connected conditions.

Under current law, VA is mandated to provide hospital care to service-connected veterans and low-income veterans for any disability. Let's be clear on one thing. Benefits and services for veterans with service-connected disabilities remain a national priority. This provision does not alter our commitment to those veterans in any way.

Government-provided health care for veterans' service-connected disabilities is the most fundamental basis for the VA health care system. However, our proposed amendments do not in any way disturb that basic tenet or the commitment to the service-connected veteran. That point is made very clearly in the report language on this measure. More significantly, an extraordinary body of law—title 38 of the United States Code—makes clear this Nation's obligation, moral and legal, to the service-connected veteran.

Absent good alternatives, we had to ask whether the objections to this provision were sufficiently compelling to adopt instead other far more onerous savings provisions.

The primary objection to this provision appears to be that it breaches the principle that the Government has an obligation to provide care to veterans with service-connected disabilities. In fact, that principle remains inviolate. There would be no change to existing law which makes it clear that whether or not a veteran is insured has no bearing on the Government's obligation to provide care. VA makes no distinction between veterans with insurance and those without in providing care, and is barred under law from doing so.

A related objection charges that this provision shifts the cost—and thus the obligation—from the Government to the private sector. The Government's obligation is, and remains, to provide care to veterans. Nothing in the proposed amendments changes that obligation. The only question is whether, under circumstances where there exists third-party coverage, that third party should be freed of a risk it undertook to bear. In the past fiscal year, VA collected $378 million from third parties for care provided to insured veterans. In the instance where an insured veteran chooses VA care, I believe the taxpayer, veteran and nonveteran alike, presented with the facts, would want the Government to collect from whatever coverage the veteran has just as if the care had been furnished in the private sector. It is difficult to understand why it is acceptable for VA to recover the cost of statutorily mandated hospitalization for the nonservice-connected care of a 100-percent service-connected veteran but unacceptable to recover for discretionary nursing home care, for example, for another veteran's service-connected condition. VA bears the cost of both veterans' care, and appropriately so. Any recoveries do not subsidize VA's cost of care-delivery since those moneys, other than the cost of collections, must be returned to the Treasury. But to the extent the Government is unable to collect as any other provider can, VA in effect subsidizes insurance.

A final objection asserts that this provision will lead to premium increases for insured service-connected veterans. This is not a concern that should be glibly dismissed. But this concern is entirely speculative, and runs counter to the general experience with the way most health insurance is written and risk spread. The reality is that most service-connected veterans do not obtain care from VA; insurance companies are paying for that care. Yet there is no evidence that those companies charge service-connected veterans higher premiums today.

I want to thank all members of the Veterans' Affairs Committee for their cooperation and understanding. Achieving real savings totaling almost $2.6 billion over the next 5 years is a difficult task. But getting control of the budget deficit is a high priority of the President and both Houses of the Congress and everyone must share part of the burden if we are to bring the deficit down.

Mr. HOBSON. Mr. Chairman, despite all the rhetoric that has transpired today in this chamber, the whole argument boils down to this: The American people have asked Congress, first, to control runaway spending, and second, to do it by cutting spending first.

The President has tried to respond to runaway spending and he has offered to reduce the deficit. But through his tax and budget proposal, he intends to do it and give taxpayers the bill. Taxpayers aren't at fault here. It's time government learns to live within its means.

There are two clear choices we face today: Do we reduce the deficit through the single largest tax increase in history—the President's package. Or do we reduce the deficit by cutting spending first without tax increases—the Kasich budget alternative. We have a choice. But the Kasich alternative is what the American people want and what they have asked for.

Our vote today should be easy. We can turn our backs on the people out there at home we represent. Or we can join the American taxpayer in a fight against runaway Government spending.

I am siding with the American taxpayer to cut spending. I am supporting the Kasich alternative.

Mr. GOODLING. Mr. Speaker, I rise to express my concern about two issues which have been included in this legislation from my Committee on Education and Labor: The Direct Student Loan Program and various Employee Retirement Income Security Act [ERISA] provisions.

It has long been known that the Guaranteed Student Loan Program is in need of serious program reform and I sincerely commend the President for placing this issue at the top of his agenda. However, I have to disagree with administration's reform proposal as contained in this reconciliation bill for several reasons.

First, these provisions make major policy changes outside of the ordinary reauthorization process, changes this Congress specifically did not adopt in last year's reauthorization of the Higher Education Act due to lack of support.

Second, this proposal would abandon the direct loan demonstration program enacted into law only 10 months ago before it even begins. Until direct loans are tested, they are just a concept. Given the number of students and families that rely on the student loan program, I believe that it makes far more sense to test direct loans first, to make sure they are a better alternative to the current system.

Third, the proposal, which makes sweeping changes to the student loan program is essentially devoid of specifics and instead relies on broad grants of discretion to the Secretary of Education leaving many aspects of the new program unclear.

Fourth, I have extremely serious questions about the savings estimates associated with direct loans. CBO Director, Robert Reischauer, stated in a recent letter to me that because of accounting rules under credit reform, "the administrative costs associated with the administration's proposed direct loan program are not evenly divided over the life of the loan. Rather, the administrative costs are disproportionately associated with the collection of interest and principal payments and this collection does not begin until the student has left school, often several years after receiving the loan. For this reason, the administrative costs included in [CBO's] estimate for the first years of a direct loan program are much lower than the full administrative costs of a direct loan program."

Fifth, I have serious doubts over whether or not the Department of Education can efficiently manage this program. If they fail to run it properly—and all of the evidence suggests that the Department will not suddenly develop the administrative finesse that they have lacked for so long—it will be students and schools that will suffer.

Sixth, despite the claims of some direct lending proponents who would have us believe otherwise, there is far from uniform support on our Nation's campuses for a move to direct lending until it can be carefully evaluated. There is a great deal of anxiety among schools in my district that full implementation of direct loans does not allow for an honest assessment of the feasibility of direct loans or a financial safety net for students during the implementation period.

And finally, I think we really need to ask ourselves whether or not the Federal Government ought to be borrowing $20 billion a year to finance this program. The goal of reconciliation is to save money not further bloat the federal budget debt.

The President is right, we do need reform of Federal student loans, but his chief objectives: Flexible repayment and budget savings can be found by reforming the current program. Direct lending may or may not work. In my view, it makes far more sense to let the pilot run its course before throwing away the existing program in favor of a huge new Federal student loan bureaucracy.

On a second front, after several years of not having to confront serious employee benefit policy matters which are not germane to budget reconciliation, I am again compelled to express my reservations in regard to the extraneous ERISA amendments included in the budget reconciliation instructions reported by the Committee on Education and Labor and the Committee on Ways and Means.

The direct and indirect changes made to ERISA in sections 4202, 4203, and 13420 are contentious and involve ERISA and health policy matters which do not appear to be legitimate issues for inclusion in budget reconciliation. These provisions include several significant changes to ERISA which will affect the private health plans now operating under our voluntary employment-based system.

Many of my committee colleagues and I are concerned that important health policy issues, whether involving a continuation of coverage for immunization or any other form of health benefit, be fully debated and considered in the regular order.

Also falling into this category are proposed exemptions for ERISA preemption for various portions of the health care laws of four states—Hawaii, Maryland, Minnesota, and New York. The role that the States should play in achieving overall health care reform is an extremely important subject to be resolved in the context of the national debate. Even though a 2-year "sunset" would apply to these four exceptions under section 4203, the substance and merits of these proposals should be considered beyond a single perfunctory hearing.

These ERISA provisions are contentious, lack germaneness, and therefore should not be considered as part of the reconciliation process in the House.

Thank you, Mr. Chairman. I ask my colleagues to examine these issues carefully as they review and make their decisions on this extensive legislation.

Mr. HEFLEY. Mr. Chairman, the question I want answered today is this: Does anybody remember the 1990 budget agreement?

In case your memory needs refreshing, the 1990 budget agreement was going to cut the deficit by $500 billion over 5 years through a combination of the world's largest tax increase and future, unspecified spending cuts.

So what happened?

The taxes failed to raise as much as expected, the spending cuts never materialized, and the deficit, instead of decreasing, climbed to three successive record levels.

In the meantime, the economy ground to a halt, unemployment rose, and we wound up with a new president whose campaign headquarters held a sign reading, "It's the economy, stupid."

Apparently, Bill Clinton the campaigner learned a lesson that Bill Clinton the President forgot, because today we're confronted with a budget plan that claims to cut the deficit by $500 billion over 5 years through a combination of the world's largest tax increase and future, unspecified spending cuts.

Sound familiar?

Why are we repeating a massive failure that's only 3 years old?

Keep in mind that in 1990, the deficit was $123 billion, or $217 billion less than next year's anticipated deficit!

At the time of the budget agreement, the gross domestic product had reached almost $5 trillion (1987 dollars) and unemployment was at only 5.4 percent. Since then, the economy has grown only 2 percent (in 30 months) while unemployment has risen to 6.9 percent.

And what about all those new tax revenues? Well, the budget agreement called for over $150 billion in new taxes to cut the deficit. The actual revenues have been much less. (Some taxes, like the luxury tax, actually cost the Government money.)

That's the legacy of the 1990 budget agreement.

Confronted with a growing deficit and a soft economy, George Bush elected to raise taxes. Confronted with a remarkably similar situation, Bill Clinton has elected to do the same.

Unfortunately, there's reason to expect the Clinton package will have a worse impact on the economy than the 1990 budget agreement. In every way, the Clinton package is a more potent poison.

Instead of $150 billion in new taxes, the Clinton plan calls for $332 billion.

Instead of creating one new income tax bracket, the Clinton package creates two.

Instead of spreading the pain around, the Clinton plan targets small businesses and other job producers.

According to the Center for Policy Analysis, over the 5 years the Clinton package will: Lower capital investment by $1.8 trillion; lower gross national product by $1 trillion; lower job creation by 1.4 million; cut the deficit by only $108 billion.

In other words, the Clinton package proposes to lower our national income by almost $2 trillion in order to cut $108 billion from the deficit.

In 1990, I predicted that raising taxes would hurt the economy, increase government spending, and result in a higher (not lower) deficit.

Well—I told you so.

Today, I'm making the same prediction about the Clinton tax increases. This plan will damage the economy, increase Government spending, and fail to cut the deficit by anything near $500 billion.

It's a bad plan and we should reject it.

Mrs. VUCANOVICH. Mr. Chairman, Candidate Clinton promised tax cuts—President Clinton promises the largest tax increase in American history. Taxes that will harm each and every citizen of this country and I am strongly opposed to his plan.

Mr. Chairman, we are discussing today legislation that will have great impact on this country. I oppose it for many reasons—it is a bad bill that harms many people—but I oppose it most because it raises taxes without

so much as trying to cut spending. It's been said many times, and the people of Nevada keep telling me, they are not taxed too little—Government spends too much. It's that simple.

Over this past week. we've heard much about the energy tax and I definitely believe it is wrong. But there are many other parts of this budget that are equally wrong.

Bill Clinton is raising taxes on our senior citizens—he's cutting health care benefits to veterans—he's delaying COLA's to Federal and military retirees.

He's also attacking jobs in my State of Nevada by reducing the business tax deduction from 80 percent to 50 percent. America loves to visit Nevada and business America makes Nevada home to numerous conventions and expositions each year. Bill Clinton said he wanted to create jobs—reducing the business deduction will eliminate jobs in my State and thousands nationwide. How regressive, how unfair.

Bill Clinton is raising taxes on us all—it's a change we don't need. Let's cut government spending now.

Mr. PACKARD. Mr. Chairman, the Clinton tax package before us today heaps taxes on Americans already struggling to provide a decent standard of living for themselves and their families. Rather than making Americans pay their fair share, the Clinton tax plan will ensure that Americans will be sharing most of their income with the Federal Government.

Last night in the middle of the night, the Administration cut a deal with the Democrat leaders of the House, and may have sealed America's economic fate. In order to wring enough votes from rank and file Democrats to pass this bill which spells economic disaster for America, they came up with a new gimmick: phony "entitlement targets."

Now, when the Democrats who voted for Clinton's tax package go back to their constituents who are screaming about their higher taxes, Democrats can say they made "tough spending choices" to curb the growth of Social Security, Medicare and dozens of other entitlements programs that make up over half of the federal budget.

In reality, ladies and gentlemen, these so called entitlement targets do not guarantee that spending will be restrained. Instead, when a spending target is exceeded, President Clinton or Congress, merely has to propose more taxes to pay for the excess, more spending cuts, or more borrowing so that Congress can simply add to the deficit. The Rules Committee can also waive these targets whenever it wants.

Given the recent history of the Congress, controlled by the Democrats since 1954, what do you think it would vote to do if the spending targets were exceeded? Cut spending? Absolutely not. The tax burden on hard working Americans will either be increased, or Congress will add to the deficit. These entitlement targets are a sham—they will prevent Congress from raising taxes for about as long as President Clinton prevented planes from landing at LAX while he got his hair cut: a couple of hours.

Three parts of this budget represent a particularly onerous tax burden that will affect the middle class, seniors, and anyone else in America who breathes: The energy tax, the Social Security tax and a surprising new entitlement program which seriously undercuts the President's rhetoric that this package will help working Americans.

First, the energy tax. The Clinton energy tax is regressive, inflationary and will counter the economic recovery already underway in this country.

Because a larger proportion of the lower and middle class' income goes toward keeping a roof over their head and transportation costs, this tax is inherently regressive.

Because the Clinton energy tax would increase the cost of manufactured goods in plants around the Nation, business and industry will simply pass these costs on to the consumer. Every step of a manufacturing process requires energy, as well as the energy required to transport the finished goods. The Clinton energy tax is therefore inflationary and will escalate the already spiralling tax burden on American families.

Finally, the energy tax will stifle the economic recovery we see occurring right now. According to the Tax Foundation, it is estimated that throughout the Nation, half a million jobs will be lost because of the Clinton energy tax. His energy tax will result in 54,399 job losses in my State of California. In my district in southern California alone, almost 1,000 jobs will be lost. Behind every number, there is a human face, a family, someone who can blame their unemployment on Clinton's tax package.

Next, the tax on Social Security benefits, or if you listen to the President: a "spending cut." Seniors will be penalized for working and saving for their retirement under the Clinton tax plan. Even though in his manifesto, "Putting People First," candidate Clinton promised to protect the integrity of the Social Security Trust Fund, he has decided to balance the budget on backs of seniors.

Clinton's proposal would affect seniors with incomes of over $25,000 or couples with incomes over $32,000 by increasing the tax on 85 percent of their Social Security benefits. The tax revenues generated by this new tax on seniors will then be used to fund other programs, rather than going into the Social Security trust fund. The President should not wonder, as he pillages senior's benefits to pay for other programs, why in addition to the budget deficit, he also must contend with the trust deficit.

The $29 billion Clinton hopes to raise at the expense of our seniors could easily be achieved by implementing just a handful of waste-cutting recommendations that have been put before him. Seniors should be appalled that a President who was not even born while many of them were fighting in world wars to make the world safe for democracy, and working to feed their families, is now trying to pick their pockets to pay for his new spending programs.

And speaking of new spending programs, Mr. Speaker, I'd like to call my colleagues' attention to a new entitlement program contained in President Clinton's budget reconciliation bill. And I single it out as a vibrant example of the hypocrisy contained in this bill.

Most of the meager spending cuts in this package come from cuts in Medicare reimbursements to doctors and hospitals, Federal retirees' benefits and Medicaid. So, essentially the President is cutting medical benefits to the poor and elderly and cutting the benefits of those who worked for the Federal Government. Meanwhile, the President has created a brand new entitlement program. Do you know who the new entitlement program is for? It is for illegal immigrants who break the law to enter our country. What happened to the President's promise to help working Americans?

Three hundred million dollars has been found to provide money to hospitals who deliver the babies of mothers who cross the border to give birth. This new entitlement for illegals is a 100 percent Federal payment of the Medicaid costs incurred by States hit by illegal immigration. So, while the Clinton tax package cuts medical benefits for working American citizens, it generously provides for 100 percent payment of illegal immigrants' medical costs. This is absolute hypocrisy.

I would close by saying, Mr. Speaker, that Mr. Clinton appears to have forgotten about the real needs of the American people and the economic welfare of this Nation. Indeed, he has not focused his formidable political skills like a laser beam on the economy. He has focused on the magical number of 218. Because 218 votes is what he needs to ramrod his tax bill through the House. And no compromise or deal cut was too shameful or outrageous if it meant that 218 Members would vote for this package. The American people will remember this as they watch more and more of their paycheck go toward Federal taxes.

President Clinton portrays this tax package as change for America, saying that it is time the rich pay their fair share. However, President Clinton is robbing everyone in America to pay for the Congress' insatiable appetite for spending.

Mr. HASTERT. Mr. Speaker, the BTU in the Btu tax in this reconciliation bill stands for Big Time Unemployment. According to some estimates, the Btu tax alone will destroy approximately 22,000 jobs in Illinois, killing more than 600,000 nationally.

In touting his energy tax the President has stated that it will reduce the deficit, increase energy conservation and have significant environmental effects. Let me address each of these arguments and then get into the impact of the Btu tax on my home State of Illinois.

A DRI/McGraw-Hill study shows that by 1998, the depressed economic activity caused by the Btu tax will increase Federal Government expenditures for unemployment compensation and other economy-related payments while decreasing Federal income tax revenues. DRI estimates that these effects will offset nearly 40 percent of the direct revenues raised by the Btu tax. Thus, although gross energy tax collections are predicted by the administration to about $30 billion annually by 1998, DRI predicts the Federal deficit will only fall by $19 billion.

But proposed welfare increases will take much of the rest. The Clinton administration, recognizing the regressive nature of the energy tax, plans to offset the real economic pain of the Btu tax on lower-income Americans by proposing increases in the Earned Income Tax Credit—$7 billion by 1998—Food Stamps—$3 billion by 1998—and Low Income

Home Energy Assistance—$1 billion by 1998. Thus, of the $19 billion a year the energy tax will actually net to the Treasury, these linked increases in Federal assistance payments will take $11 billion a year. Not much deficit reduction for a tax that collects about $30 billion annually for consumers.

The tax will also have surprisingly little effect on energy conservation. Clinton justifies the 34.2 cents per million Btu's surcharge on oil—about $2 per barrel—in part as assisting in energy conservation. The administration originally claimed projected imports of oil will be reduced by 350,000 barrels a day by the year 2000. But the tax's increase in the price of oil will discourage domestic production in favor of cheaper imported oil. The much touted energy conservation gains will vanish as domestic production is backed out and we find our Nation in a perilous energy security position.

I want to commend my colleagues on the House Ways and Means Committee for making several changes to the President's original proposal. But, Mr. Speaker, those changes amount to nothing more than rearranging the deck chairs on the Titanic.

I. AGRICULTURE

Let me give you an example of how the specific proposals President Clinton has introduced will affect Illinois agriculture.

One of America's most energy intense industries is agriculture. The total Clinton tax is expected to cost American farmers more than $1 billion annually for 5 years. The changes made by the Ways and Means Committee would only slightly reduce that burden.

Here's how the proposed Btu tax would affect the average Illinois farmer who raises 500 acres of corn.

FACT SHEET ON EFFECTS OF PROPOSED BTU TAX ON ILLINOIS FARMERS—(REVISED AS OF MAY 18, 1993)

Here's how a proposed Btu tax would affect the average Illinois farmer who raises 500 acres of corn:

Product	Average annual usage	Btu tax
Ammonia fertilizer	40 tons	$150.00
Diesel fuel	4,500 gallons	166.50
Propane for drying	12,500 gallons	300.00
Total impact		616.50

Illinois Farm Bureau estimates are based on the following assumptions: a 26.8 cent/million Btu tax rate on on-farm diesel, gasoline and natural gas, a feedstock exemption, and 150 bu/acre average corn yield.

Here's the per unit rate of the proposed Btu tax on selected farm inputs:

Product	Btu Tax/unit
Ammonia fertilizer	$3.75/ton
Diesel fuel	3.7 cents/gallon
Propane fuel	2.4 cents/gallon

If approved by Congress, the Btu energy tax would be fully phased in by October 1, 1995.

II. ETHANOL

On the ethanol front, the good news is that the Clinton Administration is moving ahead with plans to include ethanol in the reformulated gasoline program required under the Clean Air Act. Clinton also exempted ethanol from the energy tax in an earlier incarnation of his economic package. The bad news is that the Ways and Means Committee has restored the top rate for ethanol, 61 cents per million Btus.

I know the Clinton Administration supports ethanol and I am encouraged when I hear Secretary Espy say the corn-based fuel "reduces pollution and creates more jobs," and is "something I know our President supports." But if that were the case I would argue that the inclusion of ethanol under the Btu tax would work against the President's stated policy of promoting renewable and alternative sources of energy.

Taxing ethanol under the proposed Btu tax would also add insult to injury, since it would tax one of farmers' outputs in addition to the inputs already proposed for new taxes. In other words, President Clinton proposes to levy much of his taxes on the backs of the American farmer and then tax their very products into oblivion.

Inclusion of ethanol under the Btu tax would also cast a pale of uncertainty over the ethanol industry and among farmers. It is important that President Clinton complete the review of reformulated gasoline regulation and exempt ethanol from the Btu tax as quickly as possible to ensure that the stability of the ethanol industry and the livelihoods of American farmers are not adversely affected.

III. INLAND WATERWAY FUEL USER FEES

President Clinton proposed increasing barge fuel user fees on the Inland Waterways by over 500 percent. Speaking as a representative from a grain producing State for which barge traffic along our rivers is important, I can say that this user fee will decimate the domestic barge and export grain industries.

The House Ways and Means Committee decided that the President's tax was just too high and halved it. But these taxes are still increased a whopping 250 percent!

Currently, barge operators pay a tax of 17 cents a gallon on diesel fuel into the Inland Waterway trust fund. This money goes toward the rehabilitation and construction of the Inland Waterway system. President Clinton proposed incrementally increasing this tax to $1.19 by 1997. As if that were not enough, the Clinton Btu tax added another 5 cents on top of that, for a total of $1.24 per gallon tax.

At present waterway fuel costs about 60-cents a gallon. The National Grain and Feed Association estimates that a $1 increase in the inland waterway fuel tax would cause losses in annual farm income of up to $431 million due to decreased cash prices for grain paid to farmers. This figure does not include the decrease in farm income which will result from higher prices for fertilizer which is also transported by barge. The $431 million does not include the impact of the proposed BTU tax.

According to University of Illinois research, one-third of Illinois corn production is shipped by barge to export markets. The impact of the barge fuel tax is expected to total at least 3.5 cents/bushel for Illinois producers. Using the example of 500 acres of corn production, the impact of the proposed barge fuel tax would total $875.

Barge transportation is so valuable because it is so economical. My district is not only blessed with some of the most productive acres in the country, but also it is situated near the Illinois River and thus access to the world markets. The corn and soybean farmers in my district fetch some of the best prices for their crops due to this transportation premium. The proposed Clinton inland waterway tax not only erodes this market advantage, but also in the case of export grain, passes increases in transportation costs on to farmers'.

Consumers would bear the direct impact of President Clinton's proposal. Increases of the magnitude that President Clinton has proposed would be felt immediately in the marketplace. This is because river barges move such huge volumes of raw materials, fuels and farm crops; coal for electricity, tractor fuel, fertilizer, grain, industrial chemicals, metallic ores, and cement.

IV. RATE SHOCK

The Illinois Commerce Commission [ICC] has released a study indicating that the Clinton Btu tax will have a disproportionate impact on the utility bills of low-income Illinois households and that the administration's announced funding increases for an energy lifeline services program.

The report found that the average residential utility customer will pay about $60 a year in Btu taxes whereas, the low income customer will end up paying about $40 more as a result of the tax. In Illinois, over 600,000 households qualify as low income, that is those households with annual incomes below 125 percent of the national poverty level of $13,000. What we know about the energy consumption patterns of the poor is that because they tend to live in older, less insulated, less modern homes, with less efficient appliances, they also tend to get about 17 percent less energy for every dollar they pay in electricity costs than middle-class people. Couple that with the fact that on average, low-income people pay a much higher percentage of their income for utility bills than do higher income earners and the unfairness of this regressive tax becomes apparent.

As I mentioned earlier, to mitigate the rate shock of the Btu tax on low-income people the Clinton Administration has proposed increased funding for the Low Income Home Energy Assistance Program [LIHEAP]. Unfortunately, most of the increase is eaten-up by the Btu tax with only a relatively small amount going to alleviating the Btu tax's rate shock effect. Worse yet, those eligible for LIHEAP assistance but still unable to participate because of the effects of the tax will still be liable to pay the whole tax.

V. INFLATION

The Btu tax would restart the Democrat's inflation machine. Taxing energy raises the cost of production for manufacturers, processors, transporters and all other commercial users. Consumers get stuck with the final bill. Once imposed, the Btu tax would be scattered throughout the production chain and largely hidden from the consumer. The looming danger from this type of hidden tax is immense because it masks the true cost of government spending and allows for future hikes at little risk.

While reducing the Federal deficit is one of my top priorities, I believe deficit reduction efforts should focus on cutting government spending—not raising taxes. For this reason I will vote against the President's Btu tax. You see, I oppose efforts to deprive middle-class, working Americans of their hard-earned dollars

to pay for a bloated, wasteful Federal bureaucracy.

And what will the American taxpayer get for these new taxes?

According to some estimates, the energy tax alone will destroy approximately 22,000 jobs in Illinois, killing more than 600,000 jobs nationally. The energy tax will raise gasoline taxes by at least 8 cents per gallon, increase inflation, and reduce our Nation's economic output by $34 billion annually. Energy taxes are unfair because they disproportionately impact low- and middle-income families who must use a higher proportion of their income to buy basic goods. Americans will be hit with energy taxes that will result in higher prices for everything from groceries to clothing. Virtually everything that requires energy to be produced will cost more. Energy taxes will dampen our modest economic recovery hurt our ability to compete and expand in a global market, and eliminate jobs.

And the Federal deficit will continue to grow.

The American people deserve better. Instead, we must take action by giving the President and Congress the tools to reduce the deficit. We must begin by giving the President the line-item veto, a power almost all state governors have. We must also force Congress to adopt the balanced budget amendment. It's time to require the Federal Government to live within its means.

In conclusion, the Clinton Btu tax has very little to do with deficit reduction or energy conservation and a lot to do with putting people out of work.

Mr. ANDREWS of Texas. Mr. Chairman, I rise to clarify an issue regarding the definition of feedstock in the bill under consideration, H.R. 2264. The administration's bill, H.R. 1960, did not define feedstock, but provided a tax refund for "any qualified nonfuel use." Secretary of the Treasury Lloyd Bentsen testified before the Senate Committee on Finance with respect to the administration's position on what was intended to be excluded for feedstock use in H.R. 1960 as introduced, and in his testimony, the Secretary explained why certain processes that require significant inputs of electricity did not qualify as a tax exempt use of energy under the Treasury's bill.

It would appear that the concept of tax exempt feedstock use in H.R. 2264 is more restrictive than either the administration's initial bill or the basic chemical industry concept that feedstocks are raw materials for the manufacturing or production process, or which participate in a chemical reaction.

However, my understanding is that the Committee on Ways and Means did not intend to modify the Treasury's position on this issue. The language in the reported bill blends the original tax-exempt concept in H.R. 1960 with the intent expressed by the Secretary before the Senate Committee on Finance. Under the reported bill, a percentage of qualified feedstock use would now be exempt from tax. The tax exempt percentage is the percentage—determined on the basis of chemical structure—of the taxable refined petroleum product, natural gas, coal, or electricity which is incorporated into the substance manufactured or produced.

The definition in H.R. 2264 now focuses on that portion of raw materials that survives in a final or manufactured product. Unfortunately, that percentage in chemical manufacturing could and does vary significantly on a daily basis depending upon a number of conditions. Most importantly, the manufacturer could now be liable for tax on substances that are not used as a fuel in the manufacture of petrochemicals or other products.

Mr. Chairman, I hope the administration will be willing to clarify the feedstock exemption when this legislation is before the Senate Committee on Finance. This is particularly important to the efficient administration of the Btu tax. Registered chemical manufacturers must certify their tax-exempt qualified feedstock use on receipt. H.R. 2264 also provides a backup use tax if tax-exempt feedstock raw materials are converted to a taxable use, for example, use as fuel. Since the collection of tax revenues is protected, there is no need to unduly restrict the feedstock definition.

Under these circumstances, the definition of a tax-exempt feedstock should be modified to track basic industry usage that a feedstock is a raw material which is used in the manufacturing or production process, or which participates in a chemical reaction.

Mr. HASTERT. Mr. Chairman, I rise in support of the Energy and Commerce Committee's reconciliation provisions dealing with spectrum auctions. As an original cosponsor of H.R. 857, I believe auctions should replace the outdated, and often unfair, lottery process. Indeed, if our goal is to produce additional revenues aggregating to $7.2 billion over 5 years with auctions, we need to make sure that all qualified bidders will have the opportunity to participate in this new process. That is why I was pleased that Chairmen DINGELL and MARKEY worked with me to add the words "and competition" to section 309(j)(3)(B) of chapter 1. This language will ensure that the FCC promotes competition during this new lottery procedure, thereby giving all potential bidders the opportunity to procure spectrum at auctions.

On another issue, I also support the committee's recommendations on regulatory parity. It is important that all commercial mobile services be regulated under the same set of requirements by the FCC.

Mr. SMITH of Michigan. Mr. Chairman, over the past several weeks, I have read in the newspapers and heard from several members that the President's budget plan would add $1 trillion to the public debt over the next 5 years. This is incorrect. Over 5 years, the cash-flow deficit would be $1.2 trillion, but the increase in the public debt would be $1.8 trillion. From today through 1998, the President's plan would increase the public debt an additional $2 trillion for a total debt of $6.2 trillion.

Public debt includes amounts borrowed from the Government trust funds such as Social Security and Medicare, as well as moneys borrowed from Federal civilian and military pensions, highway, aviation, housing, and other Government funds. All of these borrowed funds should be considered debt.

Page 4 of the conference report of the concurrent resolution on the budget clearly increases the public debt to $6.2 trillion by 1998. We must address not only our cash-flow deficit, but the growth in the public debt. Excessive Government borrowing and the resulting IOU's undermine our financial security, as well as put persons who depend on these future funds, such as retirees, in the predicament of having to go without.

Much has been made about how the public debt increased from $1 trillion to $4 trillion in the past 12 years. The President's plan would increase the public debt by $2 trillion in just over 5 years.

In the concurrent budget resolution, the public debt is increased $372.3 billion, $366 billion, $355.8 billion, $359.1 billion, and $369.7 billion, respectively, over the next 5 years. This is an average debt increase of $365 billion per year. From 1988 through 1992, the average debt increase was only $328 billion per year.

Americans have been led to believe the reconciliation bill reduces spending and reduces growth of the public debt. However, Federal spending would increase from $1.5 trillion in fiscal year 1994 to $1.8 trillion by fiscal year 1998 and the public debt would increase exactly $1 billion per day for the next 5 years, an increase over the daily increase of the past 5 years.

We must do better.

Our deficit reduction efforts have not gone far enough. We are fooling ourselves if we think the Clinton plan adds only $1.2 trillion of debt. In 1998, if everything goes as planned, we will be talking about our $6.2 trillion debt.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The modifications to the bill printed in part 1 of House Report 103–112 are considered adopted.

The text of H.R. 2264, as modified, is as follows:

H.R. 2264

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1993".

SEC. 2. TABLE OF CONTENTS.

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

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1993".

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

Sec. 1001. Short title and table of contents.

Subtitle A—Commodity Programs

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

Subtitle B—Restructuring of Loan Programs

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

Subtitle C—Food Stamp Program

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

Subtitle A—Commodity Programs

SEC. 1101. WHEAT PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

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

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

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

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

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

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

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

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

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

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

(2) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title III of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3382) is amended—

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

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

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

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

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

(ii) by striking "1995" and inserting "1998".

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

SEC. 1102. FEED GRAIN PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

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

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

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

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

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

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

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

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

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

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

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

(A) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(B) by striking "1995" and inserting "1998".

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

SEC. 1103. UPLAND COTTON PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

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

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall

apply beginning with the 1994 crop of upland cotton.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

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

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

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

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

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

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

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

(3) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title V of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3421) is amended—

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

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

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

(i) in the section heading, by striking "1996" and inserting "1999"; and

(ii) by striking "1996" and inserting "1999".

SEC. 1104. RICE PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

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

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

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Such section is further amended—

(1) in the section heading, by striking "1995" and inserting "1998";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "1998";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "1999";

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

(5) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 1998".

SEC. 1105. DAIRY PROGRAM.

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

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

(A) in the first sentence of subparagraph (A), by striking "The Secretary" and inserting "Subject to subparagraph (B), the Secretary";

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

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

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

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

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

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

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

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

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

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

"(C) during each of the calendar years 1996 through 1998, 10 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of each of the calendar years 1996 through 1998 in the manner provided in subparagraph (B).".

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN FISCAL YEARS AFTER 1995.—

(1) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is further amended—

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

(B) in subsections (a), (b), (d)(1)(A), (d)(2)(A), (d)(3), (f), (g)(1), and (k), by striking "1995" each place it appears and inserting "1998"; and

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

(2) TRANSFER TO MILITARY AND VETERANS HOSPITALS.—Subsections (a) and (b) of section 202 of such Act (7 U.S.C. 1446a) are amended by striking "1995" both places it appears and inserting "1998".

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

(4) DAIRY INDEMNITY PROGRAM.—Section 3 of Public Law 90–484 (7 U.S.C. 4501) is amended by striking "1995" and inserting "1998".

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

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

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

SEC. 1106. TOBACCO PROGRAM.

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

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

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

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN FISCAL YEARS AFTER 1995.—Such subsection is further amended by striking "1995" and inserting "1998".

(c) ACREAGE-POUNDAGE QUOTAS FOR TOBACCO.—

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

(A) by inserting "DEFINITIONS.—" after "(a)"; and

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

"(2) FARM ACREAGE ALLOTMENT.—The term 'farm acreage allotment' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by dividing the farm marketing quota by the farm yield.

"(3) FARM YIELD.—The term 'farm yield' means the yield per acre for a farm determined according to regulations issued by the Secretary and which would be expected to result in a quality of tobacco acceptable to the tobacco trade.

"(4) FARM MARKETING QUOTA.—

"(A) IN GENERAL.—The term 'farm marketing quota' for a farm for a marketing year means a number that is equal to the number of pounds of tobacco determined by multiplying—

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

"(ii) the national factor.

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

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

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

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

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

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

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

(C) in subsection (d)—

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

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

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

(D) in subsection (e)—

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

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

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

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

(E) in subsection (g)—

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

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

(3) FARM MARKETING QUOTA REDUCTIONS.—Subsection (f) of such section is amended to read as follows:

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

"(A) which was marketed as having been produced on a different farm;

"(B) for which proof of disposition is not furnished as required by the Secretary;

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

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

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

"(3) The reduction required under this subsection shall be in addition to any other adjustments made pursuant to this section.

"(4) In establishing farm marketing quotas for other farms owned by the owner displaced by acquisition of the owner's land by any agency, as provided in section 378 of this Act, increases or decreases in such farm marketing quotas as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency.

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

SEC. 1107. SUGAR PROGRAM.

(a) TEN PERCENT INCREASE IN MARKETING ASSESSMENT.—Subsection (i) of section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

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

"(A) in the case of marketings during fiscal years 1992 through 1994, .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

"(B) in the case of marketings during fiscal years 1995 through 1999, .198 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).''; and

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

"(A) in the case of marketings during fiscal years 1992 through 1994, .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

"(B) in the case of marketings during fiscal years 1995 through 1999, .2123 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.''.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

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

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

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

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

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

SEC. 1108. OILSEEDS PROGRAM.

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

(1) in the section heading, by striking "1995" and inserting "1998"; and

(2) in subsections (b), (c), (e)(1), and (n), by striking "1995" each place it appears and inserting "1998".

SEC. 1109. PEANUT PROGRAM.

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

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

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

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

"(h) ADDITIONAL MARKETING ASSESSMENT.—

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

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

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

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

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

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

"(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a price support loan made under this section, ½ of the assessment under this subsection shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts as provided in subparagraph (B) of paragraph (2). For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds under this subsection shall be treated as having been paid to the producer.

"(5) RESERVE ACCOUNT.—

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

"(i) the total amount remitted to the Commodity Credit Corporation under paragraphs (2) and (3) as the payment of the marketing assessment applicable to that crop of peanuts under this subsection; and

"(ii) the total amount deducted from the proceeds of a price support loan or paid by first purchasers under paragraph (4) as the payment of the marketing assessment applicable to that crop of peanuts under this subsection.

"(B) USE OF RESERVE ACCOUNT.—The Secretary shall use amounts in the reserve account established in this paragraph to cover losses incurred by the Commodity Credit Corporation on the sale or disposal of peanuts for which price support has been provided under this section. Funds in the reserve account shall be made available until expended.

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

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

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

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

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

(B) in subsections (a)(1), (a)(2), (b)(1), and (g)(1), by striking "1995" each place it appears and inserting "1998"; and

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

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

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

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

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

(iii) in subsection (d)(1), by inserting after "5 calendar years" the following: ", or such other period as the Secretary considers to be appropriate in the case of a referendum held after 1995,";

(B) in section 358b (7 U.S.C. 1358b)—

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

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

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

(D) in section 358e (7 U.S.C. 1359a)—

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

(ii) in subsection (i), by striking "1995" and inserting "1998".

(3) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title VIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3459) is amended—

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

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

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

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

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

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

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

"(C) any assessment imposed under such agreement shall apply to peanut handlers (as that term is defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to those handlers who have entered into such agreement.".

SEC. 1110. HONEY PROGRAM.

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

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

"(2) 50 cents per pound for the 1994 through 1998 crop years.".

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

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

(2) by striking subparagraph (D); and

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

"(D) $125,000 in the 1994 crop year;

"(E) $100,000 in the 1995 crop year;

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

"(G) $50,000 in each of the 1997 and subsequent crop years.".

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES.—Subsections (a), (c)(1), and (j) of such section are amended by striking "1995" each place it appears and inserting "1998".

(d) TERMINATION OF ASSESSMENT.—Subsection (i)(1) of such section is amended by striking "1995" and inserting "1993".

SEC. 1111. WOOL AND MOHAIR PROGRAM.

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

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

(2) by striking subparagraph (D); and

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

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

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

"(F) $75,000 for 1996 marketing year; and

"(G) $50,000 for each of the 1997 and subsequent marketing years.".

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

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Subsections (a) and (b)(2) of section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) are amended by striking "1995" both places it appears and inserting "1998".

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

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

(B) by striking "as a measure of national security and to promote" and inserting "that as a method to promote".

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

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

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

(C) by striking paragraph (3).

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

(A) by inserting "(a)" after "SEC. 708."; and

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

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

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

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

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

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

(c) DISASTER PAYMENTS.—Section 208 of the Agricultural Act of 1949 (7 U.S.C. 1446i) is amended—

(1) in the section heading, by striking "1995" and inserting "1998";

(2) in subsection (d), by striking "1995" and inserting "1998".

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

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

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

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

(A) by striking "1995" each place it appears and inserting "1998"; and

(B) by striking "1996" each place it appears and inserting "1999"; and

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

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

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

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

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

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

(g) AGRICULTURE AND FOOD ACT OF 1981.—Section 1014 of the Agriculture and Food Act of 1981 (7 U.S.C. 4110) is amended by striking "1995" and inserting "1998".

(h) FOOD SECURITY ACT OF 1985.—The Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1354) is amended—

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

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

(3) in section 1001C(a) (7 U.S.C. 1308–3(a)), by striking "1995" both places it appears and inserting "1998";

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

(5) in section 1019 (7 U.S.C. 1310a), by striking "1995" and inserting "1998".

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

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "1998"; and

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

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

Subtitle B—Restructuring of Loan Programs

SEC. 1201. RESTRUCTURING OF CERTAIN LOAN PROGRAMS.

(a) LOAN PROGRAMS UNDER THE RURAL ELECTRIFICATION ACT OF 1936.—

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

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

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

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

"(c) INSURED ELECTRIC LOANS.—

"(1) HARDSHIP LOANS.—

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

"(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the borrower provides service.

"(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the borrower provides service.

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

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

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

"(2) MUNICIPAL RATE LOANS.—

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

"(B) INTEREST RATE.—

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

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

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

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

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

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

"(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

"(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the borrower provides service; and

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

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

"(C) LOAN TERM.—

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

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

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

"(3) OTHER SOURCE OF CREDIT NOT REQUIRED IN CERTAIN CASES.—The Administrator may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

"(d) INSURED TELEPHONE LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured telephone loans, to the extent of qualifying applications therefor, at an interest rate of 5 percent per annum, to any applicant who meets each of the following requirements:

"(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 4.

"(ii) The applicant is capable of producing net income or margins, before interest payments on the loan applied for, of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

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

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

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

"(2) COST-OF-MONEY LOANS.—

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

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

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

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

"(B) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan.

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

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

"(ii) if the applicant is eligible therefor, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 408, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.

"(D) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 306.

"(3) STATE TELECOMMUNICATIONS MODERNIZATION PLANS.—

"(A) APPROVAL.—If, within 6 months after final regulations are promulgated to carry out this paragraph, the public utility commission of any State develops a telecommunications modernization plan that meets the requirements of subparagraph (B),

then the Administrator shall approve the plan for the State. Otherwise, the Administrator shall approve any telecommunications modernization plan for the State that meets such requirements, which is developed by a majority of the borrowers of telephone loans made under this title who are located in the State.

"(B) REQUIREMENTS.—A telecommunications modernization plan must, at a minimum, meet the following objectives:

"(i) The plan must provide for the elimination of party line service.

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

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

"(iv) The plan must provide for—

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

"(aa) multiple voices;

"(bb) video images; and

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

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

"(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

"(C) FINALITY OF APPROVAL.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved.".

(2) RURAL TELEPHONE BANK LOAN PROGRAM.—Section 408 of the Rural Electrification Act of 1936 (7 U.S.C. 948) is amended—

(A) in subsection (a)—

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

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

(B) in subsection (b)—

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

"(4)(A) The Governor of the telephone bank may make a loan under this section only to an applicant therefor who meets the following requirements:

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

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

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

(ii) in paragraph (8)—

(I) by inserting "(A)" after "(8)";

(II) by striking "if such prepayment is not made later than September 30, 1988" and inserting "except for any prepayment penalty provided for in a loan agreement entered into before the date of the enactment of the Omnibus Budget Reconciliation Act of 1993"; and

(III) by adding at the end the following:

"(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 407(b), the Governor of the telephone bank shall—

"(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 407(b) before October 1, 1991, to the extent any such obligations are outstanding; and

"(ii) in repaying such obligations, first repay the advances bearing the greatest rate of interest."; and

(iii) by adding at the end the following:

"(9) On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

"(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

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

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

(C) by adding at the end the following:

"(e) Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before the date of the enactment of this subsection.".

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

"SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

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

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

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

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

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

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

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

"(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1)—

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

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

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

"(A) for fiscal year 1994, $198,000,000; and

"(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

"(b) ADJUSTMENT PERCENTAGE DEFINED.—As used in subsection (a), the term 'adjustment percentage' means, with respect to a fiscal year, the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on July 31 of the immediately preceding fiscal year; exceeds

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

"(c) MANDATORY LEVELS.—The Administrator shall make insured loans under this title from the Rural Electrification and Telephone Revolving Fund established under section 301, for the purposes, in the amounts, and for the periods of time specified in subsection (a), as provided in advance in appropriations Acts.

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

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

(5) MISCELLANEOUS AMENDMENTS.—

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

(i) by inserting "(a)" before "The Administrator";

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

(iii) by adding at the end the following:

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

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

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

(i) by inserting "(a)" before "The Administrator is";

(ii) by designating the 2nd undesignated paragraph as subsection (b); and

(iii) by adding at the end the following:

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

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

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

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

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

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

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

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

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

(i) by inserting "(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.—" before "The Administrator"; and

(ii) by adding at the end the following:

"(b) NO LOAN ORIGINATION FEES.—The Administrator and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan under this Act.".

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

"SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.

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

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

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

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

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

SEC. 1202. REORGANIZATION OF RURAL DEVELOPMENT FUNCTIONS.

(a) ADMINISTRATION OF RURAL ELECTRIFICATION ACT OF 1936 TRANSFERRED TO THE RURAL DEVELOPMENT ADMINISTRATION.—

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

"SECTION 1. SHORT TITLE; ADMINISTRATION OF ACT.

"(a) SHORT TITLE.—This Act may be cited as the 'Rural Electrification Act of 1936'.

"(b) ADMINISTRATION OF ACT.—The Administrator of the Rural Development Administration (in this Act referred to as the 'Administrator') shall carry out this Act under the general direction and supervision of the Secretary of Agriculture.".

(2) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

(b) OTHER FUNCTIONS OF THE RURAL ELECTRIFICATION ADMINISTRATION TRANSFERRED TO THE RURAL DEVELOPMENT ADMINISTRATION.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is amended by adding at the end the following:

"(g) TRANSFER OF FUNCTIONS OF THE RURAL ELECTRIFICATION ADMINISTRATION TO THE RURAL DEVELOPMENT ADMINISTRATION.—

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

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

"(3) EFFECT ON PENDING PROCEEDINGS AND PARTIES TO SUCH PROCEEDINGS.—

"(A) NONABATEMENT OF PROCEEDINGS.—This subsection shall not be construed to abate any proceeding commenced by or against the Rural Electrification Administration or the Administrator of the Rural Electrification Administration.

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

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

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

"(h) STRUCTURE OF THE RURAL DEVELOPMENT ADMINISTRATION.—

"(1) DEPUTY ADMINISTRATOR FOR RURAL UTILITIES.—The Administrator of the Rural Development Administration shall appoint a Deputy Administrator for Rural Utilities who shall administer—

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

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

"(2) ASSISTANT ADMINISTRATORS.—The Administrator of the Rural Development Administration may appoint—

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

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

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

"(i) rural utility technical engineering standards and specifications; and

"(ii) other utility management and accounting functions assigned by the Administrator; and

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

(d) RURAL ECONOMIC DEVELOPMENT.—

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

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

"(j) TECHNICAL ASSISTANCE UNIT.—The Administrator of the Rural Development Administration shall establish a technical assistance unit to provide to borrowers under the programs administered by the Rural Development Administration advice and guidance on community and economic development activities.".

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

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

Subtitle C—Food Stamp Program

SEC. 1301. SHORT TITLE.

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

SEC. 1302. REFERENCES TO THE ACT.

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

CHAPTER 1—ENSURING ADEQUATE FOOD ASSISTANCE

SEC. 1311. MAXIMUM BENEFIT LEVEL.

Section 3(o) of the Act (7 U.S.C. 2012(o)) is amended by striking "(4) through" and all that follows through the end of the subsection, and inserting the following:

"and (4) on October 1, 1993, and each October 1 thereafter, adjust the cost of such diet to reflect 104 percent of the cost of the thrifty food plan in the preceding June (without regard to adjustments made to such costs in any previous year), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size.".

SEC. 1312. HELPING LOW-INCOME HIGH SCHOOL STUDENTS.

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

SEC. 1313. FAMILIES WITH HIGH SHELTER EXPENSES.

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

(1) in the fourth sentence by striking ": *Provided*, That the amount" and all that follows through "June 30"; and

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

(b) LIMITATIONS.—

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

"In the 12-month period ending September 30, 1994, such excess shelter expense deduction shall not exceed $214 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $372, $305, $259, and $158 a month, respectively.".

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

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

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

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

SEC. 1315. HOMELESS FAMILIES IN TRANSITIONAL HOUSING.

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

"(F) housing assistance payments made to a third party on behalf of the household residing in transitional housing for the homeless;".

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

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

SEC. 1317. CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS.

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

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

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

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

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

CHAPTER 2—PROMOTING SELF SUFFICIENCY

SEC. 1321. INCOME EXCLUSION FOR EDUCATION ASSISTANCE.

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

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

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

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

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

SEC. 1322. CHILD SUPPORT PAYMENTS TO NON-HOUSEHOLD MEMBERS.

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

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

SEC. 1323. CHILD SUPPORT EXCLUSION.

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

(1) in subsection (d)(13)—

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

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

(2) by striking subsection (m).

SEC. 1324. IMPROVING ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES.

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

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

(2) striking ", regardless of the dependent's age,".

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

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

"(which may include reimbursements for costs of any supportive services of the kinds provided or reimbursed under the State's plan under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.)), except that State agencies may establish limits on reimbursements to participants for such costs, which limits may not be less than $25 per month".

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

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

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

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

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

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

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by striking "$4,500" and inserting the following:

"a level set by the Secretary, which shall be $5,500 through September 30, 1994, and which shall be adjusted on each October 1 thereafter to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12-month period ending on June 30 preceding the date of such adjustment and rounded to the nearest $50".

SEC. 1326. VEHICLES NECESSARY TO CARRY FUEL OR WATER.

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

"The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.".

SEC. 1327. DEMONSTRATION PROJECTS TESTING RESOURCE ACCUMULATION.

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

"(k) The Secretary may conduct, under such terms and conditions as the Secretary may prescribe, for a period not to exceed 4 years, demonstration projects to test allowing eligible households to accumulate resources up to $10,000 for later expenditure for a purpose directly related to improving the education, training, or employability (including self employment) of household members, for the purchase of a home for the household, for a change of the household's residence, or for making major repairs to the household's home. The Secretary is authorized to pay up to $100,000,000 in food stamp benefits to households participating in such demonstration projects during the period in which such projects are in operation.".

CHAPTER 3—SIMPLIFYING THE PROVISION OF FOOD ASSISTANCE

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

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

(1) in the first sentence—

(A) by striking "(2)" and inserting "or (2)";

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

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

(C) striking ", unless one of " and all that follows through "disabled member"; and

(2) in the second sentence by striking "clause (1) of the preceding sentence" and inserting "the preceding sentences".

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

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

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

(2) in subsection (g)(5) by inserting ", and their children," after "or alcoholics".

SEC. 1333. RESOURCES OF HOUSEHOLDS WITH DISABLED MEMBERS.

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

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

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

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

"The Secretary shall, once every 3 months, submit a report to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Forestry, and Nutrition of the Senate setting forth the Secretary's best estimate of the preceding quarter's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each quarterly report, the Secretary shall also state whether there is reason to believe that supplemental appropriations will be needed to support the operation of the program through the end of the fiscal year."; and

(2) striking subsections (b), (c), and (d) and redesignating subsections (e) and (f) as subsections (b) and (c), respectively.

CHAPTER 4—IMPROVING PROGRAM INTEGRITY

SEC. 1341. USE AND DISCLOSURE OF INFORMATION PROVIDED BY RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

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

(1) in the second sentence by inserting after "disclosed to and used by" the following:

"State and Federal law enforcement and investigative agencies for the purposes of administering or enforcing the provisions of this Act or any other Federal or State law and the regulations issued under this Act or such law, and";

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

"An officer or employee of an agency described in the preceding sentence who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law any information obtained under the authority granted by this subsection shall be subject to section 1905 of title 18 of the United States Code."; and

(3) in the last sentence by striking "Such purposes shall not exclude" and inserting the following—

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

SEC. 1342. ADDITIONAL MEANS OF CLAIMS COLLECTION.

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

(1) striking "and (B)" and inserting "(B)"; and

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

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

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

"(d) The amount of an overissuance of coupons (as determined under subsection (b) and except for claims arising from an error of the State agency) that has not been recovered pursuant to such subsection may be recovered from refunds of Federal taxes, as authorized pursuant to section 3720A of title 31 of the United States Code, or from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 of the United States Code.".

SEC. 1343. DEMONSTRATION PROJECTS TESTING ACTIVITIES DIRECTED AT STREET TRAFFICKING IN COUPONS.

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

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

CHAPTER 5—IMPROVING FOOD STAMP PROGRAM MANAGEMENT

SEC. 1351. CLARIFICATION OF CATEGORICAL ELIGIBILITY.

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

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

(2) striking "II," in subsection (j).

SEC. 1352. TECHNICAL AMENDMENTS RELATED TO ELECTRONIC BENEFIT TRANSFER.

(a) ELIGIBILITY DISQUALIFICATION OF INDIVIDUALS.—Section 6(b)(1)(B) of the Act (7 U.S.C. 2015(b)(1)(B)) is amended by striking "or authorization cards" and inserting ", authorization cards, or access devices".

(b) ELIGIBILITY DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.—Section 12(b)(3)(B) of the Act (7 U.S.C. 2021(b)(3)(B)) is amended by—

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

(2) striking "or cards" and inserting ", cards, or devices".

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

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

"(ii) for a period of 1 year upon—

"(I) the second occasion of any such determination; or

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

"(iii) permanently upon—

"(I) the third occasion of any such determination;

"(II) the second occasion of a finding of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for coupons; or

"(III) the first occasion of a finding of the trading of firearms, ammunition, or explosives for coupons.".

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

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

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

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

(1) by striking "substances (as the term is" and inserting "substance (as"; and

(2) by striking "(except" and all that follows through ") in", and inserting "in".

SEC. 1356. MODIFYING THE FOOD STAMP QUALITY CONTROL SYSTEM.

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

(1) in paragraph (1)(C)—

(A) by striking "payment error tolerance level" and inserting "national performance measure"; and

(B) by striking "equal to" and all that follows through the period at the end, and inserting the following:

"equal to—

"(i) the product of—

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

"(II) the lesser of—

"(aa) the ratio of—

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

"(2) the national performance measure for the fiscal year; or

"(bb) one; times

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

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

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

(3) in paragraph (6) by striking "shall be used" and all that follows through "level" the last place it appears.

(b) STUDY BY THE OFFICE OF TECHNOLOGY ASSESSMENT.—The Office of Technology Assessment shall undertake a study of measurement error, any bias in penalty amounts, extreme value bias, regression formula, and of geographical and temporal uniformity of measurements, in the food stamp program quality control system, and shall report the results and recommendations of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 12 months after the date of enactment of this Act.

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

CHAPTER 6—UNIFORM REIMBURSEMENT RATES

SEC. 1361. UNIFORM REIMBURSEMENT RATES.

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

(1) in subsection (a)—

(A) by striking "and (5)" and inserting "(5)";

(B) by inserting before the colon the following—

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

(C) in the proviso by inserting after "75 per centum" the following:

"through June 30, 1994, 70 percent for the 1-year period beginning July 1, 1994, 60 percent for the 1-year period beginning July 1, 1995, and 50 percent for any subsequent period,";

(2) in subsection (g)—

(A) by inserting "through June 30, 1995, equal to 60 percent for the 1-year period beginning July 1, 1995, and 50 percent effective July 1, 1996," after "1991,"; and

(B) by striking "automatic" and inserting "automated"; and

(3) in subsection (j) by inserting after "100 per centum" the following:

"through June 30, 1994, 70 percent for the 1-year period beginning July 1, 1994, 60 percent for the 1-year period beginning July 1, 1995, and 50 percent for any subsequent period,".

(b) APPLICATION OF AMENDMENTS.—The reductions in enhanced Federal match rates for administration resulting from the amendments made by subsection (a) shall apply to payments to States for expenditures incurred only after—

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

(2) in the case of a State with a State legislature which is not scheduled to have a regular legislative session in 1994, the end of the State fiscal year that ends during 1995;

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

CHAPTER 7—IMPLEMENTATION AND EFFECTIVE DATES

SEC. 1371. IMPLEMENTATION AND EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE AND IMPLEMENTATION.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect, and shall be implemented beginning on, October 1, 1993.

(b) SPECIAL EFFECTIVE DATES AND IMPLEMENTATION.—(1) Sections 1312, 1315, 1316, 1317, 1322, 1323, 1326, 1331, 1333, and 1353 and the amendments made by such sections shall take effect, and shall be implemented beginning on, July 1, 1994.

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

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

Subtitle D—Miscellaneous Provisions

SEC. 1401. MAXIMUM EXPENDITURES UNDER MARKET PROMOTION PROGRAM FOR FISCAL YEARS 1994 THROUGH 1998.

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

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

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

(a) AUTHORITY TO IMPOSE FEES.—

(1) ENTRANCE AND ADMISSION FEES.—The Secretary of Agriculture may charge admission or entrance fees at National Monuments, National Volcanic Monuments, National Scenic Areas, and areas of concentrated public use administered by the Secretary.

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

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

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

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

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

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

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

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at one or more centralized locations.

(2) The term "boat launching facility" includes any boat launching facility regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

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

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

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

(G) Reasonable visitor protection.

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

(4) The term "Secretary" means the Secretary of Agriculture.

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

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

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

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

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

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

SEC. 1404. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS.

(a) ENROLLMENT REQUIREMENT.—

(1) CONSERVATION RESERVE PROGRAM.—

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

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

(iii) by striking "each of calendar years 1994 and 1995" and inserting "the 1995 calendar year".

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

(2) WETLANDS RESERVE PROGRAM.—

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

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

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

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

(B) CONFORMING AMENDMENT.—Section 1237(c) of such Act (16 U.S.C. 3837(c)) is amended by striking "1995" and inserting "2000".

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

(1) in subsection (a)—

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

(B) by striking paragraph (2); and

(2) in subsection (b), by striking "(A) through (E)" and inserting "A through E".

SEC. 1405. LEVELS OF INSURANCE COVERAGE UNDER THE FEDERAL CROP INSURANCE ACT.

(a) CONVERSION OF PROGRAM TO FOUR LEVELS OF COVERAGE.—The Federal Crop Insurance Act is amended—

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

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

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

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

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

"(a) FOUR LEVELS OF COVERAGE.—In making crop insurance available under section 508 to producers of agricultural commodities grown in the United States, the Corporation shall make available four levels of insurance coverage against losses in yields of the insured commodity:

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

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

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

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

"(b) DETERMINED YIELD.—For purposes of subsection (a)(1), the determined yield for a commodity shall be equal to—

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

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

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

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

"(e) COVERAGE AND PRICE INFORMATION.—The Corporation shall ensure that each producer is provided accurate and adequate information at the time of application regarding the amount of coverage available at each level of coverage for the commodity to be insured and the cost to the producer for such coverage.

"(f) ANNUAL REPORT.—The Corporation shall report annually to the Congress the results of its operations regarding each commodity for which insurance is available under this title. The report shall include for each insured commodity a description of operations under this section at each level of coverage.".

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

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

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

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

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

"(h) REINSURANCE.—The Corporation shall provide reinsurance, to the maximum extent practicable, upon such terms and conditions as the Board may determine to be consistent with subsections (a) and (b) and with sound reinsurance principles promulgated pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401, et seq.), which the Board shall modify as necessary to conform to the purposes of this Act, taking into account the expenses of the Corporation paid on its own policies of insurance. Reinsurance shall be provided to insurers including private insurance companies or pools of such companies, reinsurers of such companies, or State or local governmental entities, including any political subdivisions thereof, that insure producers of any agricultural commodity under a plan or plans acceptable to the Corporation. However, in the case of the sale of coverage level I policies only (but not for the processing and adjustment of claims on those policies), contractors of the Corporation shall be paid only $50 per policy, of which $25.50 shall be paid by the policyholder at the time of application and $24.50 shall be paid by the Corporation. Whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay (as provided in subsection (e)) the portion of the producer's premium for such insurance so reinsured. Insurers of policies on which reinsurance is provided shall make use of licensed private insurance agents and brokers on the same basis as provided for policies of the Corporation under section 507(c)(3) of this title, except that the provisions for compensating agents and brokers from premiums paid by the insured shall not apply. The Corporation shall periodically revise its reinsurance agreement with the reinsured companies to provide for the reinsured companies to bear an increased share of any potential loss under such agreement, in cases in which the financial conditions of the reinsured companies and the availability of private reinsurance so permits.".

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

TITLE II—COMMITTEE ON ARMED SERVICES

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

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

"(2) PRE-AUGUST 1, 1986 MEMBERS.—

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

"(i) the price index for the base quarter of that year, exceeds

"(ii) the base index.

"(B) SPECIAL RULE FOR FISCAL YEARS 1994 THROUGH 1998.—In the case of the increases in retired pay that, pursuant to paragraph (1), become effective on December 1 of each of fiscal years 1994, 1995, 1996, 1997, and 1998, the initial month for which each such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be as set forth in the following table:

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

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

SEC. 2002. ELIMINATION OF MILITARY PAY RAISE FOR FISCAL YEAR 1994 AND REDUCTION IN THE AMOUNT OF THE RAISE FOR FISCAL YEARS 1995 THROUGH 1998.

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

(b) ONE PERCENT REDUCTION IN SUBSEQUENT FISCAL YEARS.—If the General Schedule of compensation for Federal classified employees is increased under section 5303 of title 5, United States Code, as amended by title X of this Act, during fiscal year 1995, 1996, 1997, or 1998, the elements of compensation of members of the uniformed services shall likewise be increased during that fiscal year in the manner provided in section 1009 of title 37, United States Code, based on the corresponding increase under section 5303 of title 5, United States Code (as so amended).

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

TITLE III—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.

(a) IN GENERAL.—Section 11(d)(11) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(11)) is amended to read as follows:

"(11) DEPOSITOR PREFERENCE.—

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

"(i) Administrative expenses of the receiver.

"(ii) Any deposit liability of the institution.

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

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

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

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

"(B) EFFECT ON STATE LAW.—

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

"(ii) PROCEDURE FOR DETERMINATION OF INCONSISTENCY.—Upon the Corporation's own motion or upon the request of any person with a claim described in subparagraph (A)(i) or any State which is submitted to the Corporation in accordance with procedures which the Corporation shall prescribe, the Corporation shall determine whether any provision of the law of any State is inconsistent with any provision of subparagraph (A) and the extent of any such inconsistency.

"(iii) JUDICIAL REVIEW.—The final determination of the Corporation under clause (ii) shall be subject to judicial review under chapter 7 of title 5, United States Code.

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

(C) by striking subparagraph (B); and

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

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

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

SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.

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

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

"(1) STOCKHOLDER DIVIDENDS.—

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

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

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

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

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

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

(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 1997 or 1998, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during the fiscal year for which such transfer is made.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The penultimate undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 290) is amended by striking "The net earnings derived" and inserting "(b) USE OF EARNINGS TRANSFERRED TO THE TREASURY.—The net earnings derived".

(2) The last undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 531) is amended by striking "Federal reserve banks" and inserting "(c) EXEMPTION FROM TAXATION.—Federal reserve banks".

SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

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

(1) CONSENT FORMS.—In subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "(including the Indian housing program under title II of the United States Housing Act of 1937)" before the 1st comma;

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

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

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

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

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

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

(A) in subparagraph (A)—

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

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

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

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

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

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

(3) PENALTY.—In subsection (c)(3)—

(A) in subparagraph (A), by inserting "or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986" after "Social Security Act"; and

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

(i) by striking clause (i) and inserting the following: "(i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), such section

6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), or such section 6103(l)(7)(D)(ix), or''; and

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

(4) CONFORMING AMENDMENT.—The heading of subsection (c) of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended by striking ''STATE EMPLOYMENT''.

SEC. 3004. GNMA REMIC GUARANTEE FEES.

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

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

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

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

SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PREMIUMS.

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

TITLE IV—EDUCATION AND LABOR

SEC. 4000. TABLE OF CONTENTS.

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TITLE IV—EDUCATION AND LABOR

Sec. 4000. Table of contents.

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Subtitle A—Federal Direct Loan Program

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

SEC. 4001. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the ''Student Loan Reform Act of 1993''.

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

SEC. 4002. FEDERAL DIRECT STUDENT LOAN PROGRAM.

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

''PART D—FEDERAL DIRECT STUDENT LOAN PROGRAM

''SEC. 451. PURPOSE; PROGRAM AUTHORIZATION.

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

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

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

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

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

''(5) to create a more streamlined student loan program that can be managed more effectively at the Federal level.

''(b) PROGRAM AUTHORITY.—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students in attendance at participating institutions of higher education selected by the Secretary (and the eligible parents of such students), to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

''SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

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

''(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 454(b) to originate loans under this part, or

''(2) through an alternative originator designated by the Secretary to students and parents of students attending institutions of higher education that have an agreement with the Secretary under section 454(a) but that do not have an agreement with the Secretary under section 454(b).

''(b) FEES FOR ORIGINATION SERVICES.—

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

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

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

''(C)(i) for academic year 1994–1995, shall not exceed a program-wide average of $10 per borrower for all the loans made under this part in the same academic year; and

''(ii) for succeeding academic years, shall not exceed such average fee as the Secretary shall establish in regulations.

''(2) FEES FOR ALTERNATIVE ORIGINATORS.—The Secretary shall pay fees for loan origination services to alternative originators of

loans made under this part in an amount established by the Secretary in accordance with the terms of the contract between the Secretary and each such alternative originator.

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

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

"(a) PHASE-IN OF PROGRAM.—

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

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

"(A) for academic year 1994–1995, loans made under this part shall represent 4 percent of the sum of new student loan volume under this part and part B of this title;

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

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

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

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

"(b) SELECTION CRITERIA FOR PARTICIPATION.—

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

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

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

"(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, and control of the institution; and

"(ii) selecting institutions that are reasonably representative of the respective categories; and

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

"(c) SELECTION CRITERIA FOR ORIGINATION.—

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

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

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

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

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

"(A) made loans under part E of this title in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 464(g) for the most recent fiscal year for which data are available;

"(B) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E;

"(C) is not overdue on program or financial reports or audits required under this title;

"(D) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);

"(E) in the opinion of the Secretary, has not had significant deficiencies identified by the State postsecondary review entity under subpart 1 of part H of this title;

"(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including those demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

"(G) provides an assurance that it has no delinquent outstanding debts to the United States, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the United States, or the Secretary in his or her discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency or agencies; and

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

"(3) REGULATIONS GOVERNING APPROVAL AFTER TRANSITION.—For academic year 1995–1996 and subsequent academic years, the Secretary shall publish regulations governing the approval of institutions to originate loans.

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

"SEC. 454. AGREEMENTS WITH INSTITUTIONS.

"(a) PARTICIPATION AGREEMENTS.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

"(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

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

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

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

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

"(E) provide timely and accurate information—

"(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after they leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

"(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

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

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

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

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

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

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

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

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

"(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a), as modified to relate to the origination of loans by the institution;

"(3) provide that the institution will originate loans to eligible students and parents in accordance with this part; and

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

"(c) WITHDRAWAL AND TERMINATION PROCEDURES.—The Secretary shall establish procedures by which institutions may withdraw or be terminated from the program under this part.

"SEC. 455. TERMS AND CONDITIONS OF LOANS.

"(a) IN GENERAL.—

"(1) PARALLEL TERMS, CONDITIONS, BENEFITS, AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 428, 428A, 428B, and 428H of this title.

"(2) DESIGNATION OF LOANS.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

"(A) section 428 shall be known as 'Federal Direct Student Loans';

"(B) section 428A shall be known as 'Federal Direct Supplemental Loans for Students';

"(C) section 428B shall be known as 'Federal Direct PLUS Loans'; and

"(D) section 428H shall be known as 'Federal Direct Unsubsidized Student Loans'.

"(b) INTEREST RATES.—

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

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

"(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.

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

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

"(ii) 1 percent,

except that such rate shall not exceed 9 percent.

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

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

"(ii) 3.1 percent,

except that such rate shall not exceed 11 percent.

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

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

"(ii) 1.5 percent,

except that such rate shall not exceed 11 percent.

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

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

"(ii) 3.1 percent,

except that such rate shall not exceed 10 percent.

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

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

"(ii) 2.1 percent,

except that such rate shall not exceed 10 percent.

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

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

"(d) REPAYMENT PLANS.—

"(1) DESIGN AND SELECTION.—Consistent with criteria established by the Secretary, the Secretary shall offer to a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on his or her loans. The borrower may choose—

"(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

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

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

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

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

"(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change his or her selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

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

"(5) REPAYMENT AFTER DEFAULT.—The Secretary may require any borrower who has defaulted on a loan made under this part to—

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

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

"(e) REPAYMENT THROUGH EXCEL ACCOUNTS.—

"(1) INFORMATION AND PROCEDURES.—The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to an EXCEL Account for the purpose of determining the annual repayment obligation of the borrower. Return and return information (as defined in section 6103 of the Internal Revenue Code of 1986) may be obtained under the

preceding sentence only to the extent authorized by section 6103(l)(13) of such Code. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively repayment pursuant to an EXCEL Account.

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

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

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

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

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

"(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and

"(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or his or her spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

"(f) DEFERMENT.—

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

"(A) shall not accrue, in the case of a Federal Direct Student Loan or a Federal Direct Consolidation Loan that consolidated only Federal Direct Student Loans, or a combination of such loans and Federal Student Loans for which the student borrower received an interest subsidy under section 428; or

"(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct Supplemental Loan for Students loan, a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Student Loan, or a Federal Direct Consolidation Loan other than those described in subparagraph (A).

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

"(A) during which the borrower—

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

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

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

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

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

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

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

"(i) NONDISCHARGEABILITY IN BANKRUPTCY.—Notwithstanding any other provision of law, a loan made under this part shall not be dischargeable in bankruptcy.

"SEC. 456. CONTRACTS.

"(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

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

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

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

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

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

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

"(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into one or more contracts for—

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

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

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

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

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

"SEC. 457. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress not later than July 1, 1993, and each July 1 for the 5 succeeding years an annual report describing the progress and status of the loan program under this part.

"(b) RESEARCH, DEMONSTRATION, AND EVALUATION.—The Secretary may use a portion of the funds described in section 459 for research on, or the demonstration or evaluation of, any aspects of the program authorized by this part, including flexible repayment plans.

"SEC. 458. REGULATORY ACTIVITIES.

"(a) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, the Secretary determines are reasonable and necessary to the successful implementation of the first year of the direct student loan program authorized by this part. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.

"(b) CLOSING DATE FOR APPLICATIONS FROM INSTITUTIONS.—The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the first year of the direct loan program under this part.

"(c) PUBLICATION OF LIST OF PARTICIPATING INSTITUTIONS AND CONTROL GROUP.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the

institutions of higher education selected to participate in the first year of the direct loan program under this part.

"SEC. 459. FUNDS FOR ADMINISTRATIVE EXPENSES.

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

CHAPTER 2—CONFORMING AMENDMENTS

SEC. 4021. PRESERVING LOAN ACCESS.

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

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

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

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

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

(2) CONFORMING AMENDMENT.—Section 422(c)(7) of the Act is amended by striking "to a guaranty agency" through the end thereof and inserting the following: "to a guaranty agency—

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

"(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 428(c)(10)(F)(v), in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A);".

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

(1) in paragraph (1)—

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

(B) by inserting the subparagraph designation "(A)" immediately after the paragraph heading;

(C) by striking "in any State" and inserting "with which the Secretary has an agreement under subparagraph (B)"; and

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

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

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

(2) in paragraph (2)—

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

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

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

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

(5) by striking paragraph (5).

(d) STUDENT LOAN MARKETING ASSOCIATION.—Section 439(q) of the Act is amended—

(1) in paragraph (1)(A)—

(A) in the first sentence, by striking "the Association or its designated agency may begin making loans" and inserting "the Association or its designated agent shall, subject to the limitations in section 428(j)(3), begin making loans to such eligible borrowers"; and

(B) by striking the second sentence;

(2) in paragraph (2)(A), by striking "the Association or its designated agent may" and inserting "the Association or its designated agent shall, subject to the limitations in section 428(j)(3),"; and

(3) in paragraph (3), by striking "that—" through the end thereof and inserting the following: "that the conditions that caused the implementation of this subsection have ceased to exist.".

SEC. 4022. GUARANTY AGENCY RESERVES.

Section 422 of the Act is amended by adding at the end thereof the following new subsection:

"(g) PRESERVATION OF GUARANTY AGENCY RESERVES.—

"(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part or the program authorized by part D of this title. However, the Secretary may not require the return of all of a guaranty agency reserve funds to the Secretary unless he or she determines that such return is essential to the operation of the program authorized by this part or the program authorized by part D of this title, or to ensure the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that the Secretary may—

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

"(B) direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets.

"(2) TERMINATION PROVISIONS IN CONTRACTS.—To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the effective date of this provision shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.".

SEC. 4023. TERMS OF LOANS.

Section 428 of the Act is amended—

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

(2) in subsection (m)—

(A) by amending paragraph (1) to read as follows:

"(1) AUTHORITY OF SECRETARY TO REQUIRE.—The Secretary may require any bor-

rower who has defaulted on a loan made under this part that is assigned to the Secretary under subsection (c)(8) to repay that loan under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, the EXCEL Account established for purposes of part D of this title."; and

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

"(2) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT MAY BE REQUIRED.—A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).".

SEC. 4024. ASSIGNMENT OF LOANS.

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

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

(2) striking the second and third sentences; and

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

"(B) An orderly transition from the Federal Family Education Loan program under this part to the Federal Direct Student Loan program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon his or her request.".

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

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

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

(2) in subparagraph (D)—

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

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

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

"(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets of, the guaranty agency.";

(3) in subparagraph (E)—

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

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

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

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

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

"(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.";

(4) in subparagraph (F)—

(A) in the matter preceding clause (i), by striking "Except as provided in subparagraph (G), if" and inserting "If";

(B) by amending clause (v) to read as follows:

"(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

"(I) meet the immediate cash needs of the guaranty agency;

"(II) ensure the uninterrupted payment of claims; or

"(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j)(4);";

(C) in clause (vi)—

(i) by striking "and to avoid" and inserting "to avoid";

(ii) by striking the period at the end thereof and inserting ", and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title."; and

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

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

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

(5) by striking subparagraph (G);

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

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

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

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

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

"(iii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the effective date of this provision shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

"(iv) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

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

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

SEC. 4026. ADMINISTRATIVE COST ALLOWANCE.

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

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

(2) in subparagraph (B), by inserting "prior to fiscal year 1994" after "any fiscal year".

SEC. 4027. CONSOLIDATION LOANS.

Section 428C of the Act is amended—

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

"(3) DEFINITION OF ELIGIBLE BORROWERS.—(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.";

(2) in subsection (b)—

(A) in paragraph (1)—

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

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

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

"(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations of the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and";

(B) in paragraph (4), by amending subparagraph (C) to read as follows:

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

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

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

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

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

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

(3) in subsection (c)—

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

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

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

"(ii) 9 percent.

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

(B) in paragraph (2)(A)—

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

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

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

"(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;"; and

(iv) by adding a period at the end of clause (vi) (as redesignated by clause (ii));

(C) by striking out suparagraph (B) of paragraph (2); and

(D) by redesignating subparagraph (C) of paragraph (2) as subparagraph (B); and

(E) in paragraph (3)(A), by inserting after the subparagraph designation the following: "except as required by the terms of repayment pursuant to an EXCEL Account offered by the Secretary under subsection (b)(5),".

SEC. 4028. STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Act is further amended by adding at the end thereof the following new subsection:

"(s) TRANSITION STUDY.—The Secretaries of Education and the Treasury shall prepare a study, to be completed within 6 months of the enactment of this provision, which shall examine alternatives concerning the status, operations, and purposes of the Association during and after the transition from the Federal Family Education Loan program to the Federal Direct Student Loan program. Such study shall—

"(1) consider how best to meet the needs of students and taxpayers;

"(2) reflect the need for the Association to maintain liquidity and perform other functions for the Federal Family Education Loan program during the transition from such program to the Federal Direct Student Loan program under part D of this title, including additional duties as specified by the Secretary of Education or the Secretary of the Treasury;

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

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

SEC. 4029. AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

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

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

(2) in section 256(b)—

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

"(b) EFFECT OF ORDERS ON STUDENT LOAN PROGRAMS.—

"(1) FEDERAL FAMILY EDUCATION LOAN PROGRAM.—(A)";

(B) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively, and by indenting such subparagraphs by an additional 2 ems spaces;

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

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

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

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

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

CHAPTER 3—EFFECTIVE DATES; STUDY

SEC. 4031. EFFECTIVE DATES.

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

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

(c) ADMINISTRATIVE COST ALLOWANCE.—The amendments made by section 4026 of this Act shall be effective on October 1, 1994.

(d) CONSOLIDATION LOANS.—The amendments made by section 4027 of this Act (other than the amendment made by section 4027(2)(B)) shall be effective for loans made in accordance with section 428C of the Act or after July 1, 1994.

SEC. 4032. STUDY OF INTERNAL REVENUE SERVICE COLLECTION OF STUDENT LOANS.

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

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

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

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

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

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

SEC. 4033. PREFERENCE OF COMMITTEE FOR IRS COLLECTION MECHANISM.

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

(1) the Committee may not, consistent with its jurisdiction under the Rules of the House of Representatives, amend this Act to include provisions providing for the collection of student loans pursuant to the Internal Revenue Code of 1986 using the Internal Revenue Service of the Department of the Treasury;

(2) the Committee would support the amendment of this Act to include such provisions, as well as amendments to the Higher Education Act of 1965, in the manner proposed by H.R. _____ as introduced on May 11, 1993; and

(3) the Committee recommends that the House of Representatives consider and adopt such amendments.

Subtitle B—Cost Sharing by States

SEC. 4101. COST SHARING BY STATES.

(a) AMENDMENT.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following new subsection:

"(n) STATE SHARE OF DEFAULT COSTS.—(1) In the case of any State in which there are located any institutions of higher education with cohort default rates that exceed 20 percent, such State shall pay to the Secretary an amount equal to—

"(A) the new loan volume attributable to all institutions in the State for the current fiscal year, multiplied by

"(B) the percentage specified in paragraph (2), multiplied by

"(C) the quotient of—

"(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State, divided by

"(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.

"(2) For purposes of paragraph (1)(B), the percentage used shall be—

"(A) 12.5 percent for fiscal year 1995;

"(B) 20 percent for fiscal year 1996; and

"(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

"(3) For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

"(A) the amount of the loans received for attendance by its current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

"(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

"(4) A State may charge a fee to an institution of higher education that participates

in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on October 1, 1994.

Subtitle C—ERISA Amendments Relating to Group Health Plans

SEC. 4201. COORDINATION OF ERISA PREEMPTION RULES WITH TITLE XIX PROVISIONS PROVIDING FOR LIABILITY OF THIRD PARTIES.

(a) IN GENERAL.—Paragraph (8) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

"(8)(A) Subsection (a) of this section shall not apply to any State law to the extent necessary to permit the State to comply with the following requirements for the receipt of Federal financial assistance under title XIX of the Social Security Act:

"(i) subparagraphs (A), (B), and (H) of section 1902(a)(25) of such Act (relating to third-party liability) and section 1903(o) of such Act (relating to medicaid as secondary payor), as in effect on October 1, 1993; and

"(ii) sections 1902(a)(45) and 1912 of such Act (relating to assignment of rights of payment), as in effect on May 12, 1993.

"(B) Paragraph (2)(B) shall not apply to any State law to the extent necessary to permit the compliance of the State with any of the requirements described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

SEC. 4202. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) is amended by adding at the end the following new section:

"SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

"A group health plan may not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by adding after the item relating to section 608 the following new item:

"Sec. 609. Continued coverage of costs of a pediatric vaccine under group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

SEC. 4203. TEMPORARY RULES GOVERNING PREEMPTION OF CERTAIN STATE LAWS.

Paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§393-1 through 393-51).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after January 14, 1983), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(B)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to subtitle 2 of title 19 of the Annotated Code of Maryland (relating to the Health Services Cost Review Commission).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans, or

"(II) any amendment of the provision referred to in clause (i) enacted on or after May 12, 1993, to the extent it provides for more than the effective administration of such Act as in effect on such date.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provision referred to in clause (i) (as in effect on or after May 12, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Maryland to assist them in effectuating the policies of such provision which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(C)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to the following provisions of the law of the State of Minnesota:

"(I) section 295.52, Minnesota Statutes, as amended in May 1993 by House File 1178 (relating to receipts tax on providers);

"(II) section 19 of article 9 of the Minnesota Health Right Act, as amended in May 1993 by House File 1178 (relating to pass-through of 2 percent gross receipts tax on providers); and

"(III) subdivision 2 of section 3 of article 1 of such Act, article 7 of such Act, and section 1 of article 3 of Minnesota House File 1178 and section 4 and all that follows through the end of such article 3, as enacted in May 1993 (relating to data collection).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans (other than a provision described in clause (i)), and

"(II) any amendment of any provision referred to in clause (i) enacted on or after May 12, 1993, to the extent it provides for more than the effective administration of such provision as in effect on such date.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in clause (i) (as in effect on or after May 12, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Minnesota to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(D)(i) Except as provided in clauses (ii), (iv), (v), and (vii), subsection (a) shall not apply to the following provisions of the law of the State of New York:

"(I) subdivisions 1(b) and 4(e) of section 2807–c of the Public Health Law (relating to 13 percent surcharge);

"(II) subdivision 1(c) of section 2807–c of the Public Health Law (relating to uniform hospital charges);

"(III) subdivision 2–a of section 2807–c of the Public Health Law (relating to the variable surcharge for HMOs);

"(IV) subdivision 14 of section 2807–c of the Public Health Law (relating to basic percentage allowances for bad debt and charity care);

"(V) subdivision 14–b of section 2807–c of the Public Health Law (relating to health care services allowances);

"(VI) subdivision 14–c of section 2807–c of the Public Health Law (relating to further allowances for financially distressed hospitals); and

"(VII) section 18 of chapter 266 of the laws of 1986, as amended (relating to excess malpractice insurance adjustments).

"(ii) Except as provided in clause (iii), nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans, or

"(II) any provision referred to in clause (i) to the extent that any law of the State of New York appropriates amounts based on amounts collected by the State under such provision for any purpose other than carrying out the programs established under the provisions described in clause (i).

"(iii) Notwithstanding clause (ii), subsection (a) shall not apply to any provision of the law of the State of New York to the extent that such provision constitutes—

"(I) an HMO surcharge of the type provided for under subdivision 2–a of such section 2807–c (as in effect on February 2, 1993), or

"(II) an allowance, of the type provided for under the provisions referred to in clause (i) (as so in effect), for bad debts, charity care, health care services, or excess malpractice insurance,

but only if the law of such State appropriates amounts based on and equivalent to amounts collected by the State under such provision solely for the purpose of carrying out one or more programs established under the provisions described in clause (i).

"(iv) Subsection (a) shall apply to any provision of the law of the State of New York to the extent that such provision constitutes a surcharge of the type provided for under subdivisions 1(b) and 4(e) of section 2807–c of the Public Health Law of the State of New York (as in effect on February 2, 1993) unless such provision provides for use of amounts collected under such provision solely for the purpose of carrying out one or more programs established under the provisions described in clause (i).

"(v) Nothing in clause (i) shall be construed to exempt from subsection (a) any amendment of any provision referred to in clause (i) enacted on or after February 2, 1993, to the extent it provides for more than the effective administration of such provisions as in effect on such date, unless such amendment constitutes only a change in the methodology of determining payments to hospitals and would result in—

"(I) a surcharge described in clause (iii)(I) of not more than 9 percent with respect to which the requirements of clause (iii) are met,

"(II) an allowance described in clause (iii)(II) which does not exceed in the aggregate a Statewide average of not more than 10 percent and with respect to which the requirements of clause (iii) are met, or

"(III) a surcharge described in clause (iv) of not more than 13 percent with respect to which the requirements of clause (iv) are met.

"(vi) Subsection (a) shall not apply to any amendment to chapter 2 of the laws of 1988 of the State of New York, as amended, to the extent that such amendment extends the period for which the provisions referred to in clause (i) are in effect.

"(vii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in clause (i) (as in effect on or after February 2, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of New York to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(viii) The provisions of this subparagraph shall be effective as of February 2, 1993.

"(E) This paragraph shall cease to be effective as of May 12, 1995.".

TITLE V—COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Medicare Program

SEC. 5000. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Sec. 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.

CHAPTER 1—PROVISIONS RELATING TO PART B

Subchapter A—Physicians' Services

SEC. 5001. REDUCTION IN DEFAULT UPDATE FOR CONVERSION FACTOR FOR 1994.

Section 1848(d)(3)(A) (42 U.S.C. 1395w–4(d)(3)(A)) is amended—

(1) in clause (i), by striking "clause (iii)" and inserting "clauses (iii) and (iv)", and

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

"(iv) ADJUSTMENT IN PERCENTAGE INCREASE FOR 1994.—In applying clause (i) for services (other than primary care services) furnished in 1994, the percentage increase in the appropriate update index shall be reduced by—

"(I) 3 percentage points for surgical services (as defined for purposes of subsection (j)(1)), and

"(II) 2 percentage points for other services.".

SEC. 5002. REDUCTION IN PERFORMANCE STANDARD RATE OF INCREASE AND INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w–4(f)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii), and

(2) by striking clause (iii) and inserting the following:

"(iii) for 1993 is 2 percentage points,

"(iv) for 1994 is 3½ percentage points, and

"(v) for each succeeding year is 4 percentage points.".

(b) INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–4(d)(3)(B)(ii)) is amended—

(1) in subclause (II), by striking "or 1995", and

(2) in subclause (III), by striking "3" and inserting "5".

SEC. 5003. CLASSIFICATION OF PRIMARY CARE SERVICES AS A SEPARATE CATEGORY OF SERVICES.

(a) IN GENERAL.—Section 1848(j)(1) (42 U.S.C. 1395w–4(j)(1)) is amended by inserting

", primary care services (as defined in section 1842(i)(4))," after "Secretary)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—

(1) to volume performance standard rates of increase established under section 1848(f) of the Social Security Act for fiscal years beginning with fiscal year 1994, and

(2) to updates in the conversion factors for physicians' services established under section 1848(d) of such Act for physicians' services to be furnished in calendar years beginning with 1996.

SEC. 5004. PHASED-IN REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

"(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994,

"(II) 1995, by an additional 25 percent of such excess, and

"(III) 1996 and subsequent years, by an additional 25 percent of such excess.

"(ii) FLOOR ON REDUCTIONS.—The practice expense relative value units for a physicians' service shall not be reduced under this subparagraph to a number less than 110 percent of the number of work relative value units.

"(iii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iv) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1994) exceeds 110 percent of the number of work relative value units (determined for such year).

"(iv) EXCLUDED SERVICES.—For purposes of clause (iii), the services described in this clause are—

"(I) anesthesia services,

"(II) radiology services, and

"(III) services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.".

(b) DEVELOPMENT OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.—

(1) The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician's service.

(2) The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

SEC. 5005. LIMITATION ON PAYMENT FOR THE ANESTHESIA CARE TEAM.

(a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDICAL DIRECTION.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w-4(a)), as amended by section 5008(a)(1), is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL DIRECTION.—

"(A) IN GENERAL.—With respect to physicians' services furnished on or after January 1, 1994, and consisting of medical direction of two, three, or four concurrent anesthesia cases, the fee schedule amount to be applied shall not exceed one-half of the amount described in subparagraph (B).

"(B) AMOUNT.—The amount described in this subparagraph, for a physician's medical direction of the performance of anesthesia services, is the following percentage of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the physician alone:

"(i) For services furnished during 1994, 120 percent.

"(ii) For services furnished during 1995, 115 percent.

"(iii) For services furnished during 1996, 110 percent.

"(iv) For services furnished during 1997, 105 percent.

"(v) For services furnished after 1997, 100 percent.".

(2) ELIMINATION OF REDUCTION FOR MEDICAL DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (13).

(b) PAYMENT TO A CERTIFIED REGISTERED NURSE ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—Subparagraph (B) of section 1833(l)(4) (42 U.S.C. 1395l(l)(4)) is amended—

(1) in clause (i), by inserting "and before January 1, 1994," after "1991,";

(2) in clause (ii)—

(A) by adding "and" at the end of subclause (II),

(B) by striking the comma at the end of subclause (III) and inserting a period, and

(C) by striking subclauses (IV) through (VII); and

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

"(iii) In the case of services of a certified registered nurse anesthetist who is medically directed by a physician and that are furnished on or after January 1, 1994, the fee schedule amount shall be one-half of the amount described in section 1848(a)(4)(B) with respect to the physician.".

SEC. 5006. BASING PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at the end the following: "For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for determining the amount of time that may be billed for such services under this section.".

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: "For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for determining the amount of time that may be billed for such services under this section.".

SEC. 5007. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w-4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.".

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)), as amended by section 5004(a); is amended by adding at the end the following new subparagraph:

"(F) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

"(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(ii)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1994 that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and as adjusted under subsection (c)(2)(F)(ii)" after "for 1994";

(2) in subsection (c)(2)(A)(i), by adding at the end the following: "Such relative values are subject to adjustment under subparagraph (F)(i).''; and

(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(F),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 5008. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1994 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(ii)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4), as amended by section 5007(c), is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993" after "(c)(2)(F)(ii)";

(2) in subsection (c)(2)(A)(i), by inserting "and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subparagraph (F)(i)"; and

(3) in subsection (i)(1)(B), by inserting "and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subsection (c)(2)(F)".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5009. GEOGRAPHIC ADJUSTMENT FACTORS FOR MEDICARE PHYSICIANS' SERVICES.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by striking "shall review" and inserting "shall, in consultation with appropriate representatives of physicians, review".

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) DEADLINE FOR INITIAL REVIEW AND REVISION.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995.

(d) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 5010. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w–4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).".

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking ", and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) in subsection (a)(3)—

(i) by inserting "AND SUPPLIERS" after "PHYSICIANS",

(ii) by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician", and

(iii) by adding at the end the following: "In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.";

(B) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting "(including services which the Secretary excludes pursuant to subsection (j)(3))" after "a physician's service";

(C) in subsection (g)(2)(D), by inserting "(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)" after "subsection (a)";

(D) in subsection (g)(3)(B)—

(i) by inserting after the first sentence the following: "No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.", and

(ii) in the last sentence, by striking "previous sentence" and inserting "first sentence";

(E) in subsection (h)—

(i) by inserting "or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))" after "physician" the first place it appears,

(ii) by inserting ", supplier, or other person" after "physician" the second place it appears, and

(iii) by inserting ", suppliers, and other persons" after "physicians" the second place it appears; and

(F) in subsection (j)(3), by inserting ", except for purposes of subsections (a)(3), (g), and (h)" after "tests and".

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 5014(e), is amended by adding at the end the following new paragraph:

"(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

"(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2) in the same manner as such section applies with respect to a physician. Para-

graph (4) of section 1842(j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 13951) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) in subparagraph (C), by striking "shall include",

(C) in subparagraph (C), by striking the period at the end and inserting ", and", and

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

"(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).".

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting "the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and" after "report to the Congress".

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 13951) is amended—

(1) in subsection (a)(1), as amended by section 5070(e)(2)—

(A) by striking "and" before "(O)", and

(B) by inserting before the semicolon at the end the following: ", and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)"; and

(2) in subsection (h)(5)(D)—

(A) by striking "paragraphs (2) and (3)" and by inserting "paragraph (2)", and

(B) by adding at the end the following: "Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.".

(f) EFFECTIVE DATES.—

(1) ENFORCEMENT AND UNIFORM APPLICATION; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1994.

(3) EOMBs.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1994.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning with 1994.

SEC. 5011. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1994, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) REPORT.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 5012. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5013. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 5014. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services.".

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA–1990).—(1) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA–1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(h) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)) is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

(i) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA–1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking "(A) Any contract" and inserting "Any contract"; and

(B) by striking subparagraph (B).

(j) EFFECTIVE DATE.—Except as provided in subsection (i), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter B—Outpatient Hospital Services and Ambulatory Surgical Services

SEC. 5021. EXTENSION OF 10 PERCENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1992, 1993, 1994, or 1995" and inserting "fiscal years 1992 through 1998".

SEC. 5022. EXTENSION OF CURRENT REDUCTION IN PAYMENTS FOR OTHER COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "1991" and all that follows and inserting "1991 through 1998.".

SEC. 5023. 1-YEAR FREEZE IN AMBULATORY SURGERY RATES.

The Secretary of Health and Human Services shall not provide for any update in the amounts of payment described in paragraphs (2)(A) and (2)(B) of section 1833(i)(2) of the Social Security Act that otherwise would occur in fiscal year 1994.

SEC. 5024. EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in paragraph (3)(B)(ii)—

(A) by striking "the last sentence of this clause" and inserting "paragraph (4)", and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In the case of a hospital that—

"(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

"(ii) receives more than 30 percent of its total revenues from outpatient services, and

"(iii) on October 1, 1987—

"(I) was an eye specialty hospital or an eye and ear specialty hospital, or

"(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (3)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

"(B) For purposes of this subparagraph (A)(iii)(II), the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1994.

SEC. 5025. EXTENSION OF CAP ON PAYMENTS FOR INTRAOCULAR LENSES.

(a) IN GENERAL.—Section 4151(c)(3) of OBRA–1990 is amended by striking "December 31, 1992" and inserting "December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of OBRA–1990.

SEC. 5026. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the

comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

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

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved.".

(C) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

Subchapter C—Durable Medical Equipment

SEC. 5031. REVISIONS TO PAYMENT RULES FOR DURABLE MEDICAL EQUIPMENT.

(a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN OF LOCAL PAYMENT AMOUNTS.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and (3)(C)(i)(II) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "1992" the first place it appears and inserting "1992, 1993, and 1994"; and

(ii) by striking "1992" the second place it appears and inserting "the year".

(B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "and" at the end of subclause (I);

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

(iii) by inserting after subclause (I) the following new subclauses:

"(II) for 1992 and 1993, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year,

"(III) for 1994, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the median of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the median of all local payment amounts determined under such clause for such item or device for that year, and".

(2) MISCELLANEOUS DEVICES AND ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)(III), by striking "1992" and inserting "1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local purchase prices computed under such subparagraph for the item for the year; and".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1991 and 1992" and inserting "1991, 1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local monthly payment rate computed under subparagraph (A)(ii) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year; and".

(b) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) IN GENERAL.—Section 1834(h)(2) (42 U.S.C. 1395m(h)(2)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1992 or 1993" and inserting "1992, 1993, or 1994";

(B) in subparagraph (B)(ii), by striking "each subsequent year" and inserting "1993";

(C) in subparagraph (C)(iv), by striking "regional purchase price computed under subparagraph (B)" and inserting "national limited purchase price computed under subparagraph (E)";

(D) in subparagraph (D)(ii), by striking "a subsequent year" and inserting "1993"; and

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

"(E) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1994, equal to the local purchase price computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the median of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the applicable percentage increase for such subsequent year.".

(2) EXCEPTION FOR CERTAIN ITEMS.—Section 1834(h) (42 U.S.C. 1395m(h)), as amended by paragraph (1), is further amended—

(A) in paragraph (1)(B), by striking "subparagraph (C)," and inserting "subparagraphs (C) and (F),"; and

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

"(F) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5032. PAYMENT FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1994.

In determining the amount of payment under part B of title XVIII of the Social Security Act during 1994, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 5033. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

"(iii) which is an accessory used in conjunction with a nebulizer or aspirator,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5034. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

"(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after October 1, 1994, for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

"(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

"(i) for medical equipment and supplies furnished on or after October 1, 1994, and before January 1, 1996, the supplier meets standards prescribed by the Secretary; and

"(ii) for medical equipment and supplies furnished on or after January 1, 1996, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

"(I) comply with all applicable State and Federal licensure and regulatory requirements;

"(II) maintain a physical facility on an appropriate site;

"(III) have proof of appropriate liability insurance; and

"(IV) meet such other requirements as the Secretary may specify.

"(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN'S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished as an incident to a physician's service.

"(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

"(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

"(2) CERTIFICATES OF MEDICAL NECESSITY.—

"(A) STANDARDIZED CERTIFICATES.—Not later than October 1, 1994, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

"(B) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), a supplier of medical equipment and supplies may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity on or after October 1, 1994.

"(ii) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Clause (i) shall not apply with respect to a certificate of medical necessity for any item that is not contained on the list of potentially overused items developed by the Secretary under subsection (a)(15)(A) to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary. In the event a supplier provides a certificate of medical necessity containing information permitted under this clause, such certificate shall also contain the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(C) DEFINITION.—For purposes of this paragraph, the term 'certificate of medical necessity' means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(3) COVERAGE AND REVIEW CRITERIA.—

"(A) DEVELOPMENT AND ESTABLISHMENT.—Not later than January 1, 1996, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies, individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(B) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

"(i) the item is frequently purchased or rented by beneficiaries;

"(ii) the item is frequently subject to a determination that such item is not medically necessary; or

"(iii) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) DEFINITION.—The term 'medical equipment and supplies' means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraphs (1) and (3)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).".

(2) CONFORMING AMENDMENT.—Effective October 1, 1994, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than July 1, 1996, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under section 1834(i)(3)(A) of the Social Security Act (as added by subsection (a)) on the utilization of items of medical equipment and supplies by individuals enrolled under part B of the medicare program.

(c) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(d) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

SEC. 5035. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate regional carrier (as designated by the Secretary).

"(ii) For purposes of clause (i), the term 'appropriate regional carrier' means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after October 1, 1993.

(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 5036. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered item the supplier has already furnished to the individual) unless—

"(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

"(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 5037. KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting before the semicolon the following: "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after the first day of the first month that begins after the expiration of the 60-day period beginning on the date of the enactment of this Act.

SEC. 5038. BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) UNASSIGNED CLAIMS.—

(1) IN GENERAL.—Section 1834(i) (42 U.S.C. 1395m(i)), as added by section 5034(a)(1), is amended—

(A) by redesignating paragraph (4) as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

"(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

"(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as amended by section 5037(a), is amended by striking "1834(i)(4)" and inserting "1834(i)(5)".

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1834(i)(4))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i)(1); or

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15);

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items or services furnished on or after October 1, 1994.

SEC. 5039. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 5040. PAYMENT FOR SURGICAL DRESSINGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 5034(a)(1), is amended by adding at the end the following new subsection:

"(j) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994)

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 5070(e)(2) and 5010(e)(1), is amended—

(1) by striking "and" before "(P)", and

(2) by inserting before the semicolon at the end the following: ", and (Q) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5041. PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking "15 percent" the second place it appears and inserting "45 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1994.

SEC. 5042. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1994, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 5013(a), is amended by adding at the end the following new paragraph:

"(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

Subchapter D—Part B Premium

SEC. 5051. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by inserting "and for each month in 1996 and 1997" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1998".

Subchapter E—Other Provisions

SEC. 5061. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii),

(2) in clause (iv), by inserting "and before January 1, 1994," after "1990,",

(3) by striking the period at the end of clause (iv) and inserting ", and", and

(4) by adding at the end the following:

"(v) after December 31, 1993, is equal to 76 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(b) TWO PERCENT UPDATE FOR 1994 THROUGH 1998.—Section 1833(h)(2)(A)(ii)(III) (42 U.S.C. 1395l(h)(2)(A)(ii)(III)) is amended by striking "1991, 1992, and 1993" and inserting "1991 through 1998".

SEC. 5062. TREATMENT OF INPATIENTS AND PROVISION OF DIAGNOSTIC AND THERAPEUTIC X-RAY SERVICES BY RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.

(a) TREATMENT OF INPATIENTS.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) in paragraph (1), in the matter following subparagraph (C), by striking "as an outpatient" and inserting "as a patient";

(2) in paragraph (2)(A), by striking "furnishing to outpatients" and inserting "furnishing to patients"; and

(3) in paragraph (3), in the matter following subparagraph (B), by striking "as an outpatient" and inserting "as a patient".

(b) TREATMENT OF DIAGNOSTIC AND THERAPEUTIC X-RAY SERVICES.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended—

(1) in paragraph (1)(A), by inserting "(i)" after "(A)" and by adding at the end the following: "and (ii) diagnostic and therapeutic x-ray services,", and

(2) in paragraph (2)(A), by striking "(A)" and inserting "(A)(i)".

(c) CONFORMING AMENDMENT.—Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "and services of a certified registered nurse anesthetist" and inserting "services of a certified registered nurse anesthetist, rural health clinic services, and Federally-qualified health center services".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994, and shall apply to services furnished on or after such date.

SEC. 5063. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) SCREENING MAMMOGRAPHY.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking "meets the quality standards established under paragraph (3)" and inserting "is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act";

(2) in paragraph (1)(C)(iii), by striking "paragraph (4)" and inserting "paragraph (3)";

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) DIAGNOSTIC MAMMOGRAPHY.—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting "and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act" after "necessary".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking "or which does not meet the standards established under section 1834(c)(3)" and inserting "or which is not conducted by a facility described in section 1834(c)(1)(B)".

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking "or whether screening mammography meets the standards established under section 1834(c)(3),".

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking "1834(c)(3),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

SEC. 5064. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION.

Section 9342 of OBRA–1986, as amended by section 4164(a)(2) of OBRA–1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f)—

(A) by striking "$55,000,000" and inserting "$60,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

SEC. 5065. ORAL CANCER DRUGS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 5070(f)(7)(B), is amended—

(1) by striking "and" at the end of subparagraph (N);

(2) by adding "and" at the end of subparagraph (O); and

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

"(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5066. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking "December 31, 1993" and inserting "December 31, 1997", and

(2) in the second sentence, by inserting after "beneficiary costs," the following: "costs to the medicaid program and other payors, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,".

SEC. 5067. TREATMENT OF CERTAIN INDIAN HEALTH PROGRAMS AND FACILITIES AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C. 1395x(aa)(4)) is amended—

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

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

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

"(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 4161(a)(2)(C) of OBRA–1990.

SEC. 5068. INTEREST PAYMENTS.

(a) IN GENERAL.—Section 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to paper claims received in the 9-month period beginning January 1, 1993, by substituting "27 calendar days" for "24 calendar days" and "17 calendar days".

(b) PROHIBITING PAYMENT OF INTEREST DURING MANDATORY PAYMENT DELAY PERIOD.—Section 1842(c)(2)(C) (42 U.S.C. 1395u(c)(2)(C)) is amended by adding at the end the following: "Notwithstanding any other provision of law, no interest may be paid with respect to a claim pursuant to the preceding sentence within any period following the submission of the claim during which no payment may be issued, mailed, or otherwise transmitted with respect to the claim.".

SEC. 5069. CLARIFICATION OF COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES PERFORMED OUTSIDE THE MATERNITY CYCLE.

(a) IN GENERAL.—Section 1861(gg)(2) (42 U.S.C. 1395x(gg)(2)) is amended by striking ", and performs services" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5069A. INCREASE IN, AND STUDY OF, ANNUAL CAP ON AMOUNT OF MEDICARE PAYMENT FOR OUTPATIENT PHYSICAL THERAPY AND OCCUPATIONAL THERAPY SERVICES.

(a) INCREASE IN ANNUAL LIMITATION.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended by striking "$750" and inserting "$900" each place it appears.

(b) STUDY.—(1) The Physician Payment Review Commission shall conduct a study of the appropriateness of continuing an annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists under the medicare program.

(2) By not later than January 1, 1995, the Commission shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1). Such report shall include such recommendations for changes in such annual limitation as the Commission finds appropriate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5070. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by inserting "and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992" after "1989"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1," and inserting "April 1,".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(6) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments".

(7) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

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

"(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(8) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

CHAPTER 2—PROVISIONS RELATING TO PARTS A AND B

SEC. 5071. ELIMINATION OF ADD-ON FOR OVERHEAD OF HOSPITAL-BASED HOME HEALTH AGENCIES.

(a) GENERAL RULE.—The first sentence of section 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by striking ", with appropriate adjustment for administra-

tive and general costs of hospital-based agencies".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning after fiscal year 1993.

SEC. 5072. STUDY AND REPORT ON MEDICARE GME PAYMENTS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the methodology used to determine payments to hospitals under the medicare program for the costs of medical residency training programs and shall include in the study an analysis of the causes of variation among such programs in the per resident costs of direct graduate medical education, including the extent of support for such programs from non-hospital sources.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report any recommendations considered appropriate by the Secretary for modifications to the methodology used to determine payments to hospitals under the medicare program for the costs of medical residency training programs that will encourage greater uniformity among medical residency training programs in the per resident costs of direct graduate medical education.

SEC. 5073. MEDICARE AS SECONDARY PAYER.

(a) EXTENSION OF DATA MATCH PROGRAM.—Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1995" and inserting "1998".

(b) PERMANENT APPLICATION TO DISABLED INDIVIDUALS.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause (iii).

(c) APPLICATION OF ESRD RULES TO CERTAIN AGED AND DISABLED BENEFICIARIES AND EXTENSION OF APPLICATION OF 18-MONTH RULE.—

(1) Subparagraphs (A)(iv) and (B)(ii) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended—

(A) by striking "Clause (i) shall not apply" and inserting "Subparagraph (C) shall apply instead of clause (i)", and

(B) by inserting "(without regard to entitlement under section 226)" after "or" the second place it appears.

(2) The second sentence of section 1862(b)(1)(C) is amended by striking "on or before January 1, 1996" and inserting "before October 1, 1998".

(d) UNIFORM RULES FOR SIZE OF EMPLOYER.—

(1) IN GENERAL.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following:

"(E) GENERAL PROVISIONS.—

"(i) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Subparagraphs (A) through (C) do not apply to a group health plan unless the plan is a plan of, or contributed to by, an employer or employee organization that has 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

"(ii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Subparagraphs (A) through (C) also do not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of current employment status with an employer that does not have 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year and the preceding calendar year; but the exception provided in this clause applies only if the plan elects treatment under this clause.

"(iii) APPLICATION OF CONTROLLED GROUP RULES.—For purposes of clauses (i) and (ii)—

"(I) all employees of corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1986, determined without regard to subsection (a)(4) or (e)(3)(C)), shall be treated as employed by a single employer,

"(II) all employees of trades or businesses (whether or not incorporated) which are under common control (under regulations prescribed by the Secretary of the Treasury under section 414(c) of that Code) shall be treated as employed by a single employer,

"(III) all employees of the members of an affiliated service group (as defined in section 414(m) of that Code) shall be treated as employed by a single employer, and

"(IV) leased employees (as defined in section 414(n)(2) of that Code) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n) of that Code.

In applying sections of the Internal Revenue Code of 1986 under this clause, the Secretary shall rely upon the regulations and decisions of the Secretary of the Treasury respecting such sections.

"(iv) GROUP HEALTH PLAN DEFINED.—For purposes of this subsection, the term 'group health plan' has the meaning given such term in section 5000(b) of the Internal Revenue Code of 1986, without regard to section 5000(d) of such Code.

"(v) CURRENT EMPLOYMENT STATUS DEFINED.—For purposes of this subsection, an individual has 'current employment status' with an employer if the individual is an employee, is the employer, or is associated with the employer in a business relationship.

"(vi) TREATMENT OF SELF-EMPLOYED PERSONS AS EMPLOYERS.—For purposes of this subsection, the term 'employer' includes a self-employed person.".

(2) CONFORMING AMENDMENTS FOR WORKING AGED.—Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended—

(A) by amending subclauses (I) and (II) of clause (i) to read as follows:

"(I) may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(a), and

"(II) shall provide that any individual age 65 or over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer shall be entitled to the same benefits under the plan under the same conditions as any such individual (or spouse) under age 65.";

(B) by striking clauses (ii), (iii), and (v), and

(C) by redesignating clause (iv) as clause (ii).

(3) AMENDMENTS FOR DISABLED INDIVIDUALS.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended—

(A) by amending the heading and clause (i) of paragraph (1)(B) to read as follows:

"(B) DISABLED INDIVIDUALS UNDER GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A group health plan may not take into account that an individual (or a member of the individual's family) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(b).";

(B) by striking clause (iv) of paragraph (1)(B); and

(C) in the second sentence of paragraph (2)(A), by striking "or large group health plan".

(4) AMENDMENTS FOR INDIVIDUALS WITH ESRD.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the matter preceding clause (i), by striking "(as defined in subparagraph (A)(v))",

(B) by striking "solely" each place it appears,

(C) by striking "by reason of" and inserting "under" each place it appears, and

(D) by inserting "or eligible for" after "entitled to" each place it appears.

(e) SECONDARY PAYER EXEMPTION FOR MEMBERS OF RELIGIOUS ORDERS.—Effective as if included in the enactment of OBRA–1989, section 6202(e)(2) of such Act is amended by adding at the end the following: "Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date.".

(f) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than April 1, 1994, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to com-

plete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(g) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (H); and

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

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(h) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(1)(12)(D)(iii)" and inserting "6103(1)(12)(E)(iii)".

(4) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(5) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(6) Except as provided in paragraph (2), the amendments made by this subsection shall be effective as if included in the enactment of OBRA–1990 and shall be executed before the amendments made by subsections (a) through (d) of this section.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ESRD AND UNIFORM SIZE RULES.—The amendments made by subsections (c) and (d) apply to items and services furnished on or after January 1, 1994.

SEC. 5074. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES.

(a) EXTENSION TO DESIGNATED HEALTH SERVICES.—

(1) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by striking "clinical laboratory services" and "CLINICAL LABORATORY SERVICES" and inserting "designated health services" and "DESIGNATED HEALTH SERVICES", respectively, each place either appears in subsections (a)(1), (b)(2)(A)(ii), (b)(4), (d)(1), and (d)(3); and

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

"(i) DESIGNATED HEALTH SERVICES DEFINED.—In this section, the term 'designated health services' means—

"(1) clinical laboratory services;

"(2) physical or occupational therapy services;

"(3) radiology or other diagnostic services;

"(4) radiation therapy services;

"(5) the furnishing of durable medical equipment;

"(6) the furnishing of parenteral and enteral nutrition nutrients, supplies, and equipment;

"(7) home health services; and

"(8) home infusion therapy services.".

(2) CONFORMING AMENDMENTS.—Section 1877 is further amended—

(A) in subsection (g)(1), by striking "clinical laboratory service" and inserting "designated health service", and

(B) in subsection (h)(7)(B), by striking "clinical laboratory service" and inserting "designated health service".

(b) MULTIPLE LOCATIONS FOR GROUP PRACTICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C. 1395nn(b)(2)(A)(ii)(II)) is amended by striking "centralized provision" and inserting "provision of some or all".

(c) TREATMENT OF COMPENSATION ARRANGEMENTS.—

(1) RENTAL OF OFFICE SPACE AND EQUIPMENT.—Paragraph (1) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

"(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

"(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the aggregate space rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease for at least one year,

"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the premises leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease of at least one year,

"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Section 1877(e)(2) (42 U.S.C. 1395nn(e)(2)) is amended—

(A) by striking "AND SERVICE" and "WITH HOSPITALS";

(B) by striking "An arrangement" and all that follows through "if" and inserting "Any amount paid by an employer to a physician (or immediate family member) who has a bona fide employment relationship with the employer for the provision of services if";

(C) in subparagraphs (A), (B), and (D), by striking "arrangement" and inserting "employment";

(D) in subparagraph (C), by striking "to the hospital"; and

(E) by adding at the end the following:

"Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of shares of overall profits or in the form of a productivity bonus based on services performed personally by the physician or member, if the amount of the remuneration is not determined in a manner that takes into account directly the volume or value of any referrals by the referring physician.".

(3) PERSONAL SERVICE ARRANGEMENTS.—Section 1877(e) is further amended by adding at the end the following new paragraph:

"(7) PERSONAL SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

"(A) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

"(B) the arrangement covers all of the services to be provided,

"(C) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

"(D) the term of the arrangement is for at least one year,

"(E) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(F) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement of other activity that violates any State or Federal law, and

"(G) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(4) ADDITIONAL EXCEPTIONS.—Section 1877(e) is further amended by adding at the end the following new paragraphs:

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory services, or

"(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value.

"(9) PAYMENTS FOR PATHOLOGY SERVICES OF A GROUP PRACTICE.—Payments made to a group practice for pathology services under an agreement if—

"(A) the agreement is set out in writing and specifies the services to be provided by the parties and the compensation for services provided under the agreement,

"(B) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(C) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity, and

"(D) the compensation arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(4) REFERRING PHYSICIANS.—Section 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is amended—

(A) by inserting "a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," after "examination services,", and

(B) by inserting ", radiologist, or radiation oncologist" after "pathologist" the second place it appears.

(d) TREATMENT OF GROUP PRACTICES.—

(1) USE OF BILLING NUMBERS, ETC.—Section 1877 is amended—

(A) in subsection (b)(2)(B), by inserting "under a billing number assigned to the group practice" after "member",

(B) in subsection (h)(4)(B), by inserting "and under a billing number assigned to the group" after "in the name of the group", and

(C) in subsection (h)(4)(C), by striking "by members of the group".

(2) TREATMENT OF SERVICES UNDER ARRANGEMENTS BETWEEN HOSPITALS AND GROUP PRACTICES.—

(A) IN GENERAL.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

(i) in subparagraph (B) (as amended by paragraph (1)(B)), by inserting "(or are billed in the name of a hospital for which the group provides designated health services pursuant to an arrangement that meets the requirements of subparagraph (B))" after "assigned to the group";

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(iii) by inserting "(A)" after ".—"; and

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

"(B) The requirements of this subparagraph, with respect to an arrangement for designated health services provided by the group and billed in the name of a hospital, are that—

"(i) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

"(ii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

"(iii) the group provides substantially all of the designated health services to the hospital's patients;

"(iv) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement;

"(v) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

"(vi) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(vii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(B) CONFORMING AMENDMENT.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by inserting "(or by a hospital for which such a group practice provides designated health services pursuant to an arrangement that meets the requirements of subsection (h)(4)(B))" before ", or by an entity".

(3) TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.—The last sentence of section 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as redesignated by paragraph (2)(A), is amended by inserting ", institution of higher education, or medical school" after "hospital".

(e) EXPANDING RURAL PROVIDER EXCEPTION TO COVER COMPENSATION ARRANGEMENTS.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by redesignating paragraph (5) as paragraph (7), and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) RURAL PROVIDERS.—In the case of designated services if—

"(A) the entity furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

"(B) substantially all of the services furnished by the entity to individuals entitled to benefits under this title are furnished to such individuals who reside in such a rural area.".

(2) CONFORMING AMENDMENTS.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(f) EXCEPTION FOR SHARED FACILITY LABORATORY SERVICES.—

(1) IN GENERAL.—Section 1877 is amended—

(A) in subsection (b), as amended by subsection (e)(1), by inserting after paragraph (5) the following new paragraph:

"(6) SHARED FACILITY LABORATORY SERVICES.—

"(A) IN GENERAL.—In the case of shared facility laboratory services of a shared facility—

"(i) that are furnished—

"(I) personally by the referring physician who is a shared facility physician or personally by an individual supervised by such a physician or by another shared facility physician and employed under the shared facility arrangement,

"(II) by a shared facility in a building in which the referring physician furnishes physician's services unrelated to the furnishing of shared facility laboratory services, and

"(III) to a patient of a shared facility physician; and

"(ii) that are billed by the referring physician or by an entity that is wholly owned by such physician.

"(B) LIMITATION.—The exception under this paragraph shall only apply to a shared facility only if the facility and the shared facility arrangement were established as of June 26, 1992."; and

(B) in subsection (h), by adding at the end the following new paragraph:

"(8) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY LABORATORY SERVICES.—The term 'shared facility laboratory services' means, with respect to a shared facility, clinical laboratory services furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility laboratory services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician who

has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility laboratory services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility laboratory services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(2) GAO STUDY OF SHARED FACILITY ARRANGEMENTS.—

(A) IN GENERAL.—The Comptroller General shall analyze the effect on the utilization of health services of shared facility arrangements for which an exception is provided under the amendments made by paragraph (1). The analysis shall include a review of the effect of the limitation, described in section 1877(b)(6)(B) of the Social Security Act (as added by paragraph (1)), with respect to such exception and on the availability of services (including hematology services).

(B) REPORT.—Not later than January 1, 1995, the Comptroller General shall submit a report to Congress on the analysis conducted under subparagraph (A). The report shall include recommendations with respect to changing the limitation.

(g) EXEMPTION OF COMPENSATION ARRANGEMENTS INVOLVING CERTAIN TYPES OF REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) by striking subparagraph (B);

(2) in subparagraph (A), by inserting before the period the following: "(other than an arrangement involving only remuneration described in subparagraph (B))"; and

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

"(B) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

"(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.

"(ii) The provision of items, devices, or supplies that are used solely to—

"(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

"(II) communicate the results of tests or procedures for such entity.".

(h) EXCEPTION FOR PUBLICLY-TRADED SECURITIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(d)(2)) is amended by striking "total assets exceeding $100,000,000" and inserting "stockholder equity exceeding $75,000,000".

(i) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (b)(2)(A)(i), in subparagraph (A)(i), by striking "who are employed by such physician or group practice and who are personally" and inserting "who are directly";

(2) in the fourth sentence of subsection (f)—

(A) by striking "provided" and inserting "furnished", and

(B) by striking "provides" and inserting "furnish";

(3) in the fifth sentence of subsection (f)—

(A) by striking "providing" each place it appears and inserting "furnishing",

(B) by striking "with respect to the providers" and inserting "with respect to the entities", and

(C) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services"; and

(4) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(j) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply with respect to a referral by a physician for designated health services (as described in section 1877(i) of the Social Security Act) made after December 31, 1994.

(2) The amendments made by this section (other than subsection (a)) shall apply to referrals made on or after January 1, 1992.

SEC. 5075. REDUCTION IN PAYMENT FOR ERYTHROPOIETIN.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(1) by striking "1991" and inserting "1994", and

(2) by striking "$11" and inserting "$10".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to erythropoietin furnished after 1993.

SEC. 5076. MEDICARE HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Section 1138(a)(1) (42 U.S.C. 1320b-8(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting "; and", and

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

"(C) in the case of a hospital or rural primary care hospital that has in effect an agreement (described in section 371(b)(3)(A) of the Public Health Service Act) with an organ procurement organization, the agreement is with such organization for the service area in which the hospital is located (as established under such section).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to hospitals participating in the programs under titles XVIII and XIX of the Social Security Act as of January 1, 1994.

SEC. 5077. EXTENSION OF WAIVER FOR WATTS HEALTH FOUNDATION.

Section 9312(c)(3)(D) of OBRA-1986, as added by section 4018(d) of OBRA-1987 and as amended by section 6212(a)(1) of OBRA-1989, is amended by striking "1994" and inserting "1996".

SEC. 5078. IMPROVED OUTREACH FOR QUALIFIED MEDICARE BENEFICIARIES.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 5079. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA-1987, as amended by section 4207(b)(4) of OBRA-1990, is amended—

(1) in paragraph (1) by striking "December 31, 1995" and inserting "December 31, 1997"; and

(2) in paragraph (4) by striking "March 31, 1996" and inserting "March 31, 1998".

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, is amended—

(1) in the last sentence of subsection (a) by striking "12 months" and inserting "36 months"; and

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (iii), and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or".

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The section following section 4206 of OBRA-1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA-1990.

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA-1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(5) Section 4207(c)(2) of OBRA-1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(6) Section 4207(d) of OBRA-1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA-1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(8) Section 4207(j) of OBRA-1990 is amended by striking "title" each place it appears and inserting "subtitle".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

SEC. 5080. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c-13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 13951) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking "to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "related basis," and inserting "related basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting "and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2)(A) Subparagraph (B) of section 1154(a)(9) (42 U.S.C. 1320c-3(a)(9)) is amended to read as follows:

"(B) If the organization finds, after reasonable notice and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.".

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

"(D) to provide notice in accordance with section 1154(a)(9)(B);".

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

SEC. 5081. HOSPICE INFORMATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

"(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 5082. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYER PROVISIONS.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: "In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than January 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1996 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal made pursuant to paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA-1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA-1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA-1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA-1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

SEC. 5083. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 13951) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by section 5070(f)(7)(B)(iii)(II) of this subtitle, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(P)".

(5) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C)

by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(6)(A) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after "such review.".

(B) Section 4207(a)(4) of OBRA-1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA-1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(7) Section 4202 of OBRA-1990 is amended—

(A) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(B) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(C) in subsection (c)(1)(A), by striking "skilled"; and

(D) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 5091. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA-1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).";

and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "and the statement" and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking "65 years of age or older",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the full amount of medicare cost-sharing as described in subparagraphs (B), (C), and (D) of section 1905(p)(3) for such individual.".

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health in-

surance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.".

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) (42 U.S.C. 1395ss(q)(5)(A)) are amended by striking "of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 5091(m)(4) of the Omnibus Budget Reconciliation Act of 1993.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 5091(m)(4) of the Omnibus Budget Reconciliation Act of 1993.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disllowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of such Act.".

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1994, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)) is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report", and

(C) in paragraph (1), by striking "Statewide;",

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

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

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 (42 U.S.C. 1395zz) is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

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

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1994, and who were not covered under such section before January 1, 1994, the 6-month period specified in that section shall begin January 1, 1994).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1994 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle B—Medicaid Program and Other Health Care Provisions

SEC. 5100. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Subtitle B—Medicaid Program and Other Health Care Provisions

Sec. 5100. References in subtitle; table of contents of subtitle.

CHAPTER 1—MEDICAID PROGRAM

SUBCHAPTER A—PROGRAM SAVINGS PROVISIONS

PART I—REPEAL OF MANDATE

Sec. 5101. Personal care services furnished outside the home as optional benefit.

PART II—OUTPATIENT PRESCRIPTION DRUGS

Sec. 5106. Permitting prescription drug formularies under State plans.
Sec. 5107. Elimination of special exemption from prior authorization for new drugs.
Sec. 5108. Technical corrections relating to section 4401 of OBRA–1990.

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

Sec. 5111. Transfer of assets.
Sec. 5112. Medicaid estate recoveries.
Sec. 5113. Closing loophole permitting wealthy individuals to qualify for medicaid.

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.

CHAPTER 1—MEDICAID PROGRAM

Subchapter A—Program Savings Provisions

PART I—REPEAL OF MANDATE

SEC. 5101. PERSONAL CARE SERVICES FURNISHED OUTSIDE THE HOME AS OPTIONAL BENEFIT.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5174(c)(1), is further amended—

(1) in paragraph (7), by striking "including personal care services" and all that follows through "nursing facility";

(2) in paragraph (23), by striking "and" at the end;

(3) by redesignating paragraph (24) as paragraph (25); and

(4) by inserting after paragraph (23) the following new paragraph:

"(24) personal care services furnished to an individual who is not an inpatient or resident of a nursing facility that are (A) authorized by a physician for the individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; and".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 5174(c)(2)(A), is amended by striking "through (23)" and inserting "through (24)".

(2) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5174(c)(2)(B), is amended by striking "through (24)" and inserting "through (25)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 4721(a) of OBRA–90.

PART II—OUTPATIENT PRESCRIPTION DRUGS

SEC. 5106. PERMITTING PRESCRIPTION DRUG FORMULARIES UNDER STATE PLANS.

(a) ELIMINATION OF PROHIBITION AGAINST USE OF FORMULARIES.—Paragraph (54) of section 1902(a)(54) (42 U.S.C. 1396a(a)(54)) is amended to read as follows:

"(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;".

(b) STANDARDS FOR FORMULARIES.—Section 1927(d) (42 U.S.C. 1396r-8(d)), as amended by sections 5107(a) and 5108(b)(4)(A)(iii), is amended—

(1) by adding at the end of paragraph (1) the following new subparagraph:

"(C) In the case of a State that establishes a formulary in accordance with paragraph (5), the State may exclude coverage of a covered outpatient drug that is not included in the formulary."; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary only if the following requirements are met:

"(A) The formulary is established by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State (or, at the option of the State, the State's drug use review board established under subsection (g)(3)).

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under subsection (a).

"(C) The committee may exclude a covered outpatient drug with respect to the treatment of a specific disease or condition for an identified population (if any) only if the committee finds, based on the drug's labeling (or, in the case of a drug whose prescribed use is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (k)(6)), that the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary.

"(D) With respect to a decision to exclude a covered outpatient drug from the formulary or a prescribed use of such a drug, the committee issues a written explanation of its decision that is available to the public, unless the decision was made at a meeting of the committee which was open to the public.

"(E) The manufacturer of the drug, and any person affected by the decision, may obtain a reversal of the committee's decision to exclude a covered outpatient drug from the formulary under subparagraph (C) on the ground that the decision was arbitrary and capricious, in accordance with an appeals process that is established by the State and that provides an opportunity for judicial review of such decision.

"(F) The State plan permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (4).

"(G) The formulary meets such other requirements as the Secretary may impose.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 5107. ELIMINATION OF SPECIAL EXEMPTION FROM PRIOR AUTHORIZATION FOR NEW DRUGS.

(a) IN GENERAL.—Section 1927(d) (42 U.S.C. 1396r–8(d)), as amended by section 5108(b)(4)(A)(iii), is amended by striking paragraph (5).

(b) CONFORMING AMENDMENT.—Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)) is amended by striking "(except with respect" and all that follows through "of this paragraph)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 5108. TECHNICAL CORRECTIONS RELATING TO SECTION 4401 OF OBRA–1990.

(a) SECTION 1903, SSA.—Paragraph (10) of section 1903(i), as inserted by section 4401(a)(1)(B) of OBRA–1990, is amended to read as follows:

"(10) with respect to covered outpatient drugs unless there is a rebate agreement in effect under section 1927 with respect to such drugs or unless section 1927(a)(3) applies;".

(b) SECTION 1927, SSA.—(1) Section 1927(a) (42 U.S.C. 1396r–8(a)) is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: "Any such agreement entered into prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.", and

(ii) in the third sentence, by striking "March" and inserting "April";

(B) in paragraph (2)—

(i) by striking "first", and

(ii) by striking the period at the end and inserting the following: ", except that such paragraph (and section 1903(i)(10)(A)) shall not apply to the dispensing of such a drug before April 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.";

(C) in paragraph (3), by striking "single source" and all that follows and inserting the following: "covered outpatient drugs if—

"(A) based on information provided by a beneficiary's physician, the State has made a determination that the availability of the drug is essential to the health of the beneficiary under the State plan, and the Secretary has reviewed and approved such determination; and

"(B) the drug has been given a rating of 1–A by the Food and Drug Administration.";

(D) in paragraph (4)—

(i) by striking "in compliance with" and inserting "in effect under", and

(ii) by striking "coverage of the manufacturer's drugs" and inserting "ingredient costs of the manufacturer's covered outpatient drugs covered"; and

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

"(5) APPLICATION IN CERTAIN STATES AND TERRITORIES.—

"(A) APPLICATION IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of section 1902(a)(54) and of this section in the same manner as the State would be required to meet such requirements if the State had in effect a plan approved under this title.

"(B) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section, and sections 1902(a)(54) and 1903(i)(10), shall only apply to a State that is one of the 50 States or the District of Columbia.".

(2) Section 1927(b) (42 U.S.C. 1396r–8(b)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "(or periodically in accordance with a schedule specified by the Secretary)" and inserting "(or other period specified by the Secretary)", and

(ii) by inserting "after December 31, 1990, for which payment was made" after "dispensed";

(B) in paragraph (2)(A)—

(i) by striking "calendar quarter" and "the quarter" and inserting "rebate period" and "the period", respectively,

(ii) by striking "dosage units" and inserting "units of each dosage form and strength", and

(iii) by inserting "after December 31, 1990, for which payment was made" after "dispensed";

(C) in paragraph (3)(A)—

(i) in clause (i), by striking "quarter" each place it appears and inserting "calendar quarter or other rebate period under the agreement",

(ii) in clause (i), by striking the open parenthesis before "for" and the close parenthesis after "drugs",

(iii) in clause (i), by striking "subsection (c)(2)(B)) for covered outpatient drugs" and inserting "subsection (c)(1)(C) for each covered outpatient drug", and

(iv) in clause (ii), by inserting a comma after "this section" and after "1990";

(D) in paragraph (3)(B)—

(i) by striking "$100,000" and inserting "$10,000",

(ii) by striking "if the wholesaler" and inserting "for each instance in which the wholesaler",

(iii) by inserting "in response to such a request" after "false information", and

(iv) by striking "(with respect to amounts of penalties or additional assessments)";

(E) in paragraph (3)(C)—

(i) in clause (i), by striking "the penalty" and inserting "the rebate next required to be paid",

(ii) in clause (i), by striking "and such amount shall be paid to the Treasury, and, if" and inserting ". If",

(iii) in clause (ii), by inserting "under subparagraph (A)" after "provides false information", and

(iv) in clause (ii), by striking "Such civil money penalties are" and inserting "Any such civil money penalty shall be";

(F) in paragraph (3)(D), by striking "wholesaler," the first place it appears and inserting "wholesaler or the"; and

(G) in paragraph (4)(B)(iii), by adding at the end the following: "In the case of such a termination, a State may terminate coverage of the drugs affected by such termination as of the effective date of such termination without providing any advance notice otherwise required by regulation.".

(3) Section 1927(c) (42 U.S.C. 1396r–8(c)) is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A)—

(i) by striking the first sentence,

(ii) in the second sentence, by striking "Except as otherwise provided" and all that follows through "the Secretary)" and inserting the following: "For purposes of this section, the amount of the rebate under this subsection for a rebate period", and

(iii) by inserting "(except as provided in subsection (b)(3)(C) and paragraph (2))" after "drugs shall";

(B) in paragraph (1)(A), by striking "the quarter (or other period)" and inserting "the rebate period";

(C) in subparagraph (C)—

(i) by striking "For purposes of this paragraph" and inserting "BEST PRICE DEFINED.—For purposes of this section",

(ii) by inserting "provider," after "retailer,", and

(iii) by striking the semicolon at the end and inserting a period; and

(D) by striking subparagraph (D) and inserting the following:

"(D) USE OF ESTIMATED BEST PRICES DURING INITIAL YEAR OF AVAILABILITY OF DRUG.—If the Secretary determines that a manufacturer cannot determine the best price for rebate periods during the first year in which an agreement is in effect until after the end of the year, as part of the agreement the Secretary may require the manufacturer to estimate the best price for rebate periods during the year and provide an adjustment to the rebate paid to the State to take into account the difference (if any) between the best price and the estimated best price.".

(4)(A) Section 1927(d) (42 U.S.C. 1396r–8(d)) is amended—

(i) in paragraph (2)—

(I) in subparagraph (A), by inserting "or loss" after "gain",

(II) by striking subparagraph (I), and

(III) by redesignating subparagraphs (J) and (K) as subparagraphs (I) and (J);

(ii) in paragraph (3)—

(I) by striking "described in paragraph (2)", and

(II) by inserting "described in paragraph (2)" after "classes of drugs,";

(iii) by striking paragraph (4) and by redesignating paragraphs (5) through (7) as paragraphs (4) through (6);

(iv) in paragraph (6), as so redesignated, by striking "provided" and inserting "if"; and

(v) by striking the second sentence of paragraph (6), as so redesignated, and paragraph (8) and inserting the following:

"(7) CONSTRUCTION WITH RESPECT TO FRAUD AND ABUSE.—Nothing in this section shall be construed to restrict the authority of a State to apply sanctions under this Act against any person for fraud or abuse.".

(B) Section 1927(d)(4), as redesignated by subparagraph (A)(iii), shall first apply to drugs dispensed on or after July 1, 1991.

(5)(A) Section 1927(f) (42 U.S.C. 1396r–8(f)) is amended to read as follows:

"(f) NO REDUCTIONS IN PHARMACY REIMBURSEMENT LIMITS.—

"(1) IN GENERAL.—During the period beginning on November 5, 1990, and ending on December 31, 1994—

"(A) a State may not reduce the amount paid by the State under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the amount in effect as of November 5, 1990, and

"(B) the Secretary may not change the regulations in effect on November 5, 1990, governing the amounts described in subparagraph (A) which are eligible for Federal financial participation, to reduce the reimbursement limits described in such regulations.

"(2) CONSTRUCTION.—If the Secretary notified a State before November 5, 1990, that its payment amounts under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug were in excess of those permitted under regulations in effect on such date, paragraph (1)(B) shall not be construed as preventing a State from reducing payment amounts or dispensing fee in order to comply with such regulations.".

(B) Not later than April 1, 1994, the Secretary of Health and Human Services shall establish an upper limit on the amount of payment which is eligible for Federal financial participation under title XIX of the Social Security Act for each multiple source drug (as defined in section 1927(k)(7)(A)(i) of such Act) for which the Food and Drug Administration has rated at least 3 formulations of such drug as therapeutically and pharmaceutically equivalent, regardless of whether all the formulations of such drug are rated as so equivalent. In establishing such a limit for a drug, the Secretary shall take into account only those formulations of the drug which the Food and Drug Administration has rated as therapeutically and pharmaceutically equivalent.

(6) Section 1927(g) (42 U.S.C. 1396r–8(g)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—Each State shall provide, by not later than January 1, 1993, for a drug use review program for covered outpatient drugs (other than drugs dispensed to residents of nursing facilities) that—

"(A) meets the requirements of paragraph (2), and

"(B) is intended to assure that prescriptions for such drugs are appropriate, medically necessary, and not likely to lead to adverse medical results.";

(B) in paragraph (2)—

(i) by amending the matter before subparagraph (A) to read as follows:

"(2) REQUIREMENTS.—",

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

"(A) PROSPECTIVE DRUG USE REVIEW.—Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title (including counseling by pharmacists) consistent with standards established by the Secretary. Nothing in this paragraph shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.",

(iii) in subparagraph (C)—

(I) by striking "APPLICATION OF STANDARDS.—" and inserting "STANDARDS.—(i)",

(II) by striking "and literature referred to in subsection (1)(B)" and inserting "described in clause (ii)",

(III) by striking "including but not limited to" and inserting ". Such assessment shall include",

(IV) by striking "abuse/misuse and, as necessary, introduce remedial strategies," and inserting "abuse or misuse and introduce remedial strategies", and

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

"(ii) The compendia described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, and the American Medical Association Drug Evaluations.", and

(iv) by amending subparagraph (D) to read as follows:

"(D) EDUCATIONAL PROGRAM.—The program shall educate (directly or by contract) pharmacists, physicians, and other individuals prescribing or dispensing covered outpatient drugs under the State plan on common drug therapy problems in order to improve prescribing or dispensing practices.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "(hereinafter" and all that follows and inserting "(in this paragraph referred to as the 'DUR Board').",

(ii) in subparagraph (B), by striking "51 percent" and all that follows and inserting "50 percent licensed and actively practicing physicians and at least ⅓ but not more than 50 percent licensed and actively practicing pharmacists.",

(iii) by amending subparagraph (C) to read as follows:

"(C) RESPONSIBILITIES.—The responsibilities of the DUR Board shall include the following:

"(i) Carrying out retrospective drug use review pursuant to paragraph (2)(B).

"(ii) Establishing and applying standards for drug use review described in paragraph (2)(C).

"(iii) Implementing educational programs described in paragraph (2)(D).

"(iv) Conducting ongoing evaluations of the effectiveness of its programs and activities in improving the quality and safety of drug therapy for individuals receiving benefits under the State plan."; and

(D) by amending subparagraph (D) to read as follows:

"(4) ANNUAL REPORT.—Each State shall submit a report each year to the Secretary on the nature and scope of the drug use review program under this subsection. Such report shall include an estimate of cost savings resulting from operation of such program.".

(7) Section 1927(h) (42 U.S.C. 1396r–8(h)) is amended to read as follows:

"(h) ENCOURAGING ELECTRONIC CLAIMS MANAGEMENT.—The Secretary shall encourage each single State agency under this title to establish, as its principal means of processing claims for covered outpatient drugs, a point-of-sale electronic claims management system for the purpose of verifying eligibility, transmitting data on claims, and assisting pharmacists and other authorized persons in applying for and receiving payment under the State plan.".

(8) Section 1927(i) (42 U.S.C. 1396r–8(i)) is amended to read as follows:

"(i) ANNUAL REPORT ON REBATE PROGRAM.—Not later than May 1 of each year, the Secretary shall submit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of the rebate agreements required for covered outpatient drugs under this section in the preceding fiscal year, and shall include in the report such information in addition to the information required to be reported under section 601(d) of the Veterans Health Care Act of 1992 as the Secretary considers appropriate.".

(9) Section 1927(j) (42 U.S.C. 1396r–8(j)) is amended to read as follows:

"(j) EXEMPTION FROM CERTAIN REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

"(1) CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND PHARMACIES.—The requirements of subsections (g) and (h) shall not apply with respect to covered outpatient drugs dispensed by—

"(A) an entity which receives payment under a prepaid capitation basis or under any other risk basis in accordance with section 1903(m)(2)(A) for services provided under the State plan; or

"(B) a pharmacy that is owned or operated by a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) that operates its own prospective drug use review program.

"(2) HOSPITALS WITH INDEPENDENT FORMULARY SYSTEMS.—

"(A) IN GENERAL.—The requirements of subsections (g) and (h) shall not apply with respect to covered outpatient drugs dispensed by a hospital providing medical assistance under the State plan that dispenses such drugs under a drug formulary system.

"(B) APPLICATION OF STATE FORMULARY.—Nothing in subparagraph (A) shall be construed to permit payment to be made under the State plan for a covered outpatient drug that is included in a drug formulary but that is not included in the State formulary under subsection (d)(5).

"(3) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in this subsection shall be construed to exclude any covered outpatient drugs subject to the provisions of this subsection from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.".

(10) Section 1927(k) (42 U.S.C. 1396r–8(k)) is amended—

(A) in paragraph (1), by striking "calendar quarter" and inserting "rebate period";

(B) in paragraph (2)—

(i) in the matter before clause (i) of subparagraph (A), by striking "paragraph (5)" and inserting "subparagraph (D)",

(ii) by striking ", and" at the end of subparagraph (A),

(iii) by striking the period at the end of subparagraph (C) and inserting "; and", and

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

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).";

(C) in paragraph (3)—

(i) in subparagraph (E), by striking "**** emergency room visits",

(ii) in subparagraph (F), by striking "sevices" and inserting "services", and

(iii) in subparagraph (H), by inserting "services" after "dialysis";

(D) by striking paragraph (4);

(E) by amending paragraph (5) to read as follows:

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug,—

"(A) the entity (if any) that both manufactures and distributes the drug, or

"(B) if no such entity exists, the entity that distributes the drug.

Such term does not include a wholesale distributor of the drug that does not hold a National Drug Code number for the drug or a retail pharmacy licensed under State law.";

(F) in paragraph (6), by striking ", which appears" and all that follows and inserting "which is accepted by any of the compendia described in subsection (g)(2)(C)(ii).";

(G) in paragraph (7)—

(i) in subparagraph (A)(i), by striking "calendar quarter" and inserting "rebate period",

(ii) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)",

(iii) in subparagraph (A)(ii), by inserting "or product licensing application" after "application",

(iv) in subparagraph (C)(i), by striking "pharmaceuutically" and inserting "pharmaceutically", and

(v) in subparagraph (C)(iii), by striking ", provided that" and inserting "and"; and

(H) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified with respect to the agreement under subsection (b)(1)(A) for the payment of rebates.".

(d) FUNDING.—Section 4401(b)(2) of OBRA–1990 is amended by striking "75 percent," and all that follows and inserting "75 percent.".

(e) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA–1990 is amended—

(A) in subparagraph (A), by striking "10" and inserting "5"; and

(B) in subparagraph (C), by striking "regiment" and inserting "regimen".

(f) STUDIES.—Section 4401(d) of OBRA–1990 is amended—

(1) in paragraph (1)(A), by striking "other institutional facilities, and managed care plans" and inserting "nursing facilities, intermediate care facilities for the mentally retarded, and health maintenance organizations";

(2) in paragraph (1)(B), by striking "under this subsection" and inserting "under this paragraph";

(3) in paragraph (1)(B)(i), by striking "under this section" and inserting "under section 1927 of the Social Security Act";

(4) in paragraph (1)(B)(ii)—

(A) by striking "drug use review" the second place it appears and inserting "the type of drug use review that is", and

(B) by striking "under this section" and inserting "under such section";

(5) in paragraph (1)(B)(iii), by striking "under this title" and inserting "under title XIX of the Social Security Act";

(6) in paragraph (1)(C)—

(A) by striking "May 1, 1991" and inserting "May 1, 1992", and

(B) by striking "hereafter";

(7) in paragraph (2), by striking "the Committees on Aging of the Senate and House of Representatives an annual report" and inserting "the Committee on Aging of the Senate a report";

(8) in paragraph (3)—

(A) in subparagraph (A), by striking ", acting in consultation with the Comptroller General,", and

(B) in subparagraph (B)—

(i) by striking "December 31, 1991, the Secretary and the Comptroller General" and inserting "June 1, 1993, the Secretary", and

(ii) by striking "the Committees on Aging of the Senate and the House of Representatives" and inserting "the Committee on Aging of the Senate";

(9) in paragraph (4)(A), by striking "each" and by striking the semicolon and inserting a comma; and

(10) by striking paragraphs (5) and (6).

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

SEC. 5111. TRANSFER OF ASSETS.

(a) PERIOD OF INELIGIBILITY.—

(1) EXTENDING LOOK-BACK PERIOD TO 36 MONTHS.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended by striking "30-month period" and inserting "36-month period".

(2) ELIMINATING 30-MONTH LIMIT ON PERIOD OF INELIGIBILITY.—The second sentence of such section is amended by striking "equal to" and all that follows and inserting the following: "equal to—

"(A) the total uncompensated value of the resources so transferred; divided by

"(B) the average monthly cost, to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the community in which the individual is institutionalized.".

(3) CUMULATIVE PERIODS OF INELIGIBILITY IN THE CASE OF MULTIPLE TRANSFERS.—Such sentence is further amended by inserting "(or, in the case of a transfer which occurs during a period of ineligibility attributable to a previous transfer, the first month after the end of all periods of ineligibility attributable to any previous transfer)" after "shall begin with the month in which such resources were transferred".

(b) CRITERIA FOR UNDUE HARDSHIP EXCEPTION.—Section 1917(c)(2)(D) (42 U.S.C. 1396p(c)(2)(D)) is amended to read as follows:

"(D) the State agency determines, under procedures established by the State (in accordance with standards specified by the Secretary) that the denial of eligibility would work an undue hardship (in accordance with criteria established by the Secretary).".

(c) TREATMENT OF JOINTLY HELD ASSETS.—Section 1917(c) (42 U.S.C. 1936p(c)) is further amended by adding at the end the following new paragraph:

"(6) For purposes of this subsection, in the case of an asset held by an individual in common with another person or persons in a joint tenancy or a similar arrangement, the asset (or the affected portion thereof) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such asset.".

(d) MEDICAID QUALIFYING TRUSTS.—Section 1902(k) (42 U.S.C. 1396a(k)) is amended to read as follows:

"(k) TREATMENT OF TRUST AMOUNTS.—

"(1) IN GENERAL.—For purposes of determining an individual's eligibility for or amount of benefits under a State plan under this title, subject to paragraph (4), the following rules shall apply to a trust (which term includes, for purposes of this subsection, any similar legal instrument or device, such as an annuity) established by such individual:

"(A) REVOCABLE TRUSTS.—In the case of a revocable trust—

"(i) the corpus of the trust shall be considered resources available to the individual,

"(ii) payments from the trust to or for the benefit of the individual shall be considered income of the individual, and

"(iii) any other payments from the trust shall be considered a transfer of assets by the individual subject to section 1917(c).

"(B) IRREVOCABLE TRUSTS WHICH MAY BENEFIT GRANTOR.—In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual—

"(i) the corpus of the trust (or that portion of the corpus from which, or from the increase whereof, payment to the individual could be made) shall be considered resources available to the individual, and payments from that portion of the corpus (or increase)—

"(I) to or for the benefit of the individual, shall be considered income of the individual, and

"(II) for any other purpose, shall be considered a transfer of assets by the individual subject to the provisions of section 1917(c); and

"(ii) any portion of the trust from which (or from the income whereof) no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets by the individual subject to section 1917(c), and payments from such portion of the trust after such date shall be disregarded.

"(C) IRREVOCABLE TRUSTS WHICH CANNOT BENEFIT GRANTOR.—In the case of an irrevocable trust, if no payment may be made from the trust under any circumstances to or for the benefit of the individual—

"(i) the corpus of the trust shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets subject to section 1917(c), and

"(ii) payments from the trust after the date specified in clause (i) shall be disregarded.

"(2) DETERMINATION OF GRANTOR.—

"(A) TREATMENT OF ACTS BY INDIVIDUAL AND OTHERS.—For purposes of this subsection, an individual shall be considered to have established a trust if—

"(i) the individual (or the individual's spouse), or a person (including a court or administrative body) with legal authority to act in place of or on behalf of such individual (or spouse), or any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse), established (other than by will) such a trust, and

"(ii) assets of the individual (as defined in subparagraph (B)) were used to form all or part of the corpus of such trust.

"(B) ASSETS.—For purposes of this paragraph, assets of an individual include all income and resources of the individual and of the individual's spouse, including any income or resources which the individual (or spouse) is entitled to but does not receive because of action by the individual (or spouse), by a person (including a court or administrative body) with legal authority to act in place of or on behalf of such individual (or spouse), or by any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse).

"(C) TRUSTS CONTAINING ASSETS OF MORE THAN ONE INDIVIDUAL.—In the case of a trust whose corpus includes assets of an individual (as determined pursuant to subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(3) APPLICATION; RELATION TO OTHER PROVISIONS.—Subject to paragraph (4), this subsection shall apply without regard to—

"(A) the purposes for which the trust is established,

"(B) whether the trustees have or exercise any discretion under the trust,

"(C) any restrictions on when or whether distributions may be made from the trust, or

"(D) any restrictions on the use of distributions from the trust.

"(4) EXCEPTIONS AND HARDSHIP WAIVER.—

"(A) EXCEPTION FOR CERTAIN TRUSTS.—This subsection shall not apply to any of the following trusts:

"(i) A trust established for the benefit of a disabled individual (as determined under section 1614(a)(3)) by a parent, grandparent, or other representative payee of the individual.

"(ii) A trust established in a State for the benefit of an individual if—

"(I) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

"(II) the State will receive any amounts remaining in the trust upon the death of the individual, and

"(III) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to any group of individuals under section 1902(a)(10)(C).

"(B) SPECIAL TREATMENT OF ANNUITIES.—In this subsection, the term 'trust' includes an annuity only to such extent and in such manner as the Secretary specifies.

"(C) HARDSHIP WAIVER.—The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes (under criteria established by the Secretary) that such application would work an undue hardship on the individual.".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall apply, except as provided in this subsection, to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before October 1, 1993,

(B) with respect to resources disposed of before May 11, 1993,

(C) with respect to trusts established before May 11, 1993, or

(D) with respect to inter-spousal transfers.

SEC. 5112. MEDICAID ESTATE RECOVERIES.

(a) REQUIRING ESTABLISHMENT OF ESTATE RECOVERY PROGRAMS.—

(1) IN GENERAL.—Section 1902(a)(51) (42 U.S.C. 1396a(a)(51)) is amended by striking "and (B)" and inserting "(B) provide for an estate recovery program that meets the requirements of section 1917(b)(1), and (C)".

(2) REQUIREMENTS FOR ESTATE RECOVERY PROGRAMS.—Section 1917(b) (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)—

(i) by striking "(b)(1)" and inserting "(2)", and

(ii) by striking "(a)(1)(B)" and inserting "(a)(1)(B)(i)";

(B) in paragraph (2), by striking "(2) Any adjustment or recovery under" and inserting "(3) Any adjustment or recovery under an estate recovery program under"; and

(C) by inserting before paragraph (2), as designated by subparagraph (A), the following:

"(b)(1) For purposes of section 1902(a)(51)(B), the requirements for an estate recovery program of a State are as follows:

"(A) The program provides for identifying and tracking (and, at the option of the State, preserving) resources (whether excluded or not) of individuals who are furnished any of the following long-term care services for which medical assistance is provided under this title:

"(i) Nursing facility services.

"(ii) Home and community-based services (as defined in section 1915(d)(5)(C)(i)).

"(iii) Services described in section 1905(a)(14) (relating to services in an institution for mental diseases).

"(iv) Home and community care provided under section 1929.

"(v) Community supported living arrangements services provided under section 1930.

"(B) The program provides for promptly ascertaining—

"(i) when such an individual dies;

"(ii) in the case of such an individual who was married at the time of death, when the surviving spouse dies; and

"(iii) at the option of the State, cases in which adjustment or recovery may not be made at the time of death because of the application of paragraph (3)(A) or paragraph (3)(B).

"(C)(i) The program provides for the collection consistent with paragraph (3) of an amount (not to exceed the amount described in clause (ii)) from—

"(I) the estate of the individual;

"(II) in the case of an individual described in subparagraph (B)(ii), from the estate of the surviving spouse; or

"(III) at the option of the State, in a case described in subparagraph (B)(iii), from the appropriate person.

"(ii) The amount described in this clause is the amount of medical assistance correctly paid under this title for long-term care services described in subparagraph (A) furnished on behalf of the individual.".

(b) HARDSHIP WAIVER.—Section 1917(b) (42 U.S.C. 1396p(b)) is further amended by adding at the end the following new paragraph:

"(4) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection if such application would work an undue hardship (in accordance with criteria established by the Secretary).".

(c) DEFINITION OF ESTATE.—Section 1917(b) (42 U.S.C. 1396(b)) is further amended by adding at the end the following new paragraph:

"(5) For purposes of this section, the term 'estate', with respect to a deceased individual, includes all real and personal property and other assets in which the individual had any legally cognizable title or interest at the time of his death, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, survivorship, life estate, living trust, or other arrangement.".

(d) EFFECTIVE DATE.—

(1)(A) The amendments made by subsections (a) and (b) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations or standards to carry out such amendments have been promulgated by such date.

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

(2) The amendments made by this section shall not apply to individuals who died before October 1, 1993.

SEC. 5113. CLOSING LOOPHOLE PERMITTING WEALTHY INDIVIDUALS TO QUALIFY FOR MEDICAID.

(a) IN GENERAL.—Section 1902(r)(2) (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraph (A), except as provided in clause (ii), a State plan may not provide pursuant to this paragraph for disregarding any assets—

"(I) to the extent that payments are made under a long-term care insurance policy; or

"(II) because an individual has received (or is entitled to receive) benefits for a specified period of time under a long-term care insurance policy.

"(ii) Clause (i) shall not apply to State plan provisions that are approved as of May 14, 1993.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART IV—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD PARTY PAYMENTS

SEC. 5116. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) LIABILITY OF ERISA PLANS.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking "insurers)" and inserting "insurers and group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974) and including a service benefit plan and a health maintenance organization)".

(2) Section 1903(o) of such Act (42 U.S.C. 1396b(o)) is amended by striking "regulation)" and inserting "regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974)), a service benefit plan, and a health maintenance organization".

(b) REQUIRING STATE TO PROHIBIT INSURERS FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by adding "and" at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) that the State prohibits any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a State plan;".

(c) STATE RIGHT TO SUBROGATION.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is further amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

"(I) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State is subrogated to the right of any other party to payment for such assistance;".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments

made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

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

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

SEC. 5117. HEALTH COVERAGE CLEARINGHOUSE.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—HEALTH COVERAGE CLEARINGHOUSE

"ESTABLISHMENT OF CLEARINGHOUSE

"SEC. 2101. (a) IN GENERAL.—The Secretary shall establish and operate a Health Coverage Clearinghouse (in this title referred to as the 'Clearinghouse') for the purpose of identifying, for beneficiaries of a covered health program (as defined in subsection (c)), third parties (which may include a covered health program) which may be liable for payment for health care items and services furnished to such beneficiaries under such program.

"(b) DIRECTOR.—The Clearinghouse shall be headed by a Director (in this title referred to as the 'Director') appointed by the Secretary.

"(c) COVERED HEALTH PROGRAM DEFINED.—In this title, the term 'covered health program' means any of the following under which payment is made for health care items or services furnished to a beneficiary:

"(1) The medicare program under title XVIII.

"(2) A State plan for medical assistance under title XIX (including a State plan operating under a Statewide waiver under section 1115).

"(3) The Indian Health Service and any program under the Indian Health Care Improvement Act.

"(4) A State program under title V that provides payment for items or services.

"(d) OTHER DEFINITIONS.—In this title:

"(1) The term 'administrator' means, with respect to the covered health program described in—

"(A) subsection (c)(1), the Administrator of the Health Care Financing Administration;

"(B) subsection (c)(2), the single State agency referred to in section 1902(a)(5);

"(C) subsection (c)(3), the Director of the Indian Health Service; and

"(D) subsection (c)(4), the State agency receiving funds under title V.

"(2) The term 'group health plan' has the meaning given such term in section 6103(l)(12)(E)(ii) of such Code.

"(3) The term 'qualified employer' has the meaning given such term in section 6103(l)(12)(E)(iii) of the Internal Revenue Code of 1986.

"PROVISION OF INFORMATION

"SEC. 2102. (a) REQUEST FOR INFORMATION.—An administrator of a covered health program may request from the Director information concerning the employment and group health coverage of a program beneficiary, the beneficiary's spouse, and (if the beneficiary is a dependent child) the beneficiary's parents. The Director shall provide such information if the request—

"(1) is in such form and manner and at such a time as the Director may require, and

"(2) specifies the name and tax identification number of the beneficiary.

"(b) DATA MATCHING PROGRAM.—

"(1) REQUEST BY DIRECTOR.—The Director shall, at such intervals as the Director finds appropriate, transmit to the Secretary of the Treasury the names and tax identification numbers of beneficiaries with respect to whom a request has been made pursuant to subsection (a), and request that such Secretary disclose to the Commissioner of Social Security the following information:

"(A) Whether the beneficiary is married and, if so, the name of the spouse and such spouse's tax identification number.

"(B) If the beneficiary is a dependent child, the name of and tax identification numbers of the beneficiary's parents.

"(2) INFORMATION FROM COMMISSIONER OF SOCIAL SECURITY.—The Secretary, acting through the Commissioner of Social Security, shall, upon written request from the Director, disclose to the Director, the following information:

"(A) For each individual who is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from, and as having available coverage under a group health plan of, an employer in a previous year—

"(i) the name and taxpayer identification number of the individual;

"(ii) the name, address, and taxpayer identification number of the employer, and whether such employer is a qualified employer; and

"(iii) whether the employer has made available a group health plan to the employee and the plan coverage provided (if any) with respect to the employee and family members of the employee under the group health plan.

"(B) For each individual who is identified as married and whose spouse is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from, and as having available coverage under a group health plan of, an employer in a previous year—

"(i) the name and taxpayer identification number of the individual and of the individual's spouse;

"(ii) the name, address, and taxpayer identification number of the spouse's employer, and whether such employer is a qualified employer; and

"(iii) whether the spouse's employer has made available a group health plan to the spouse and the plan coverage provided (if any) with respect to the spouse and family members of the spouse under the group health plan.

"(C) For each individual who is identified as a dependent child and whose parent is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from, and as having available coverage under a group health plan of, an employer in a previous year—

"(i) the name and taxpayer identification number of the individual and of the individual's parent;

"(ii) the name, address, and taxpayer identification number of the parent's employer, and whether such employer is a qualified employer; and

"(iii) whether the parent's employer has made available a group health plan to the parent and the plan coverage provided (if any) with respect to the parent and dependent children of the parent under the group health plan.

"(3) INFORMATION FROM EMPLOYERS.—The Director shall—

"(A) request, from the employer of each individual (including each spouse) with respect to whom information was received from the Commissioner of Social Security pursuant to paragraph (2), specific information concerning coverage of such individual (and of the individual's spouse and dependent children) under the employer's group health plan (including the period and nature of the coverage, and the name, address, and identifying number of the plan), and

"(B) furnish the information received in response to such request with respect to an individual (or such individual's spouse or dependent children) to the administrator requesting such information pursuant to subsection (a).

"REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION

"SEC. 2103. (a) IN GENERAL.—An employer shall furnish to the Director the information requested pursuant to section 2102(b)(3) within 30 days after receipt of such a request.

"(b) SUNSET ON REQUIREMENT.—Subsection (a) shall not apply to inquiries made after September 30, 1998.

"(c) CIVIL MONEY PENALTY FOR FAILURE TO COOPERATE.—

"(1) IN GENERAL.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate response to a request for information pursuant to section 2102(b)(3) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual with respect to whom such a request is made.

"(2) ENFORCEMENT AUTHORITY.—In cases of failure to respond to the Director in accordance with subsection (a) to inquiries relating to requests pursuant to section 2102, the provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under paragraph (1) in the same manner as such provisions apply to penalties or proceedings under section 1128A(a).

"DATA BANK

"SEC. 2104. (a) MAINTENANCE OF INFORMATION.—The Clearinghouse shall maintain a data bank, containing information on individuals obtained pursuant to this title. Individual information in the data bank shall be retained for not less than one year after the date the information was obtained.

"(b) DISCLOSURE OF INFORMATION IN DATA BANK.—

"(1) IN GENERAL.—The Director is authorized (subject to paragraph (2)) to disclose any information in the data bank established pursuant to subsection (a) with respect to an individual (or an individual's spouse or parent)—

"(A) to the Commissioner of Social Security, the Secretary of the Treasury, adminis-

trators, employers, and insurers, to the extent necessary to assist such administrators;

"(B) to Federal and State law enforcement officials responsible for enforcement of civil or criminal laws, in connection with investigations or administrative or judicial law enforcement proceedings relating to a covered health program; and

"(C) for research or statistical purposes.

"(2) RESTRICTIONS ON DISCLOSURE.—Information in the data bank may be disclosed under this subsection only for purposes of, and to the extent necessary in, determining the extent to which an individual is covered under any group health plan.

"(c) USE OF CONTRACTORS.—The responsibilities of the Clearinghouse under this section may be carried out by contract.

"(d) FEES.—The Clearinghouse shall—

"(1) establish fees for services under this section designed to cover the full costs to the Clearinghouse of providing such services, and

"(2) require the payment of such fees to provide such services.".

(b) CONFORMING MEDICARE AMENDMENTS.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking "Secretary of the Treasury" and inserting "Director of the Health Coverage Clearinghouse",

(B) by striking "(as defined in section 6103(l)(12) of the Internal Revenue Code of 1986)" and inserting "(as defined in clause (iii))", and

(C) by striking "and request" and all that follows and inserting a period;

(2) in subparagraph (A)(ii)—

(A) by striking "the Commissioner of the Social Security Administration" and all that follows and inserting "the Director of the Health Coverage Clearinghouse to obtain and disclose to the Administrator, pursuant to section 2102(b) and to subparagraph (C) of section 6103(l)(12) of the Internal Revenue Code of 1986, the information described in section 2102(b) and subparagraph (B) of such section 6103(l)(12).", and

(B) by inserting ", pursuant to section 1144(c)," after "disclose to the Administrator"; and

(3) by striking subparagraph (C).

(c) MEDICAID USE OF CLEARINGHOUSE.—Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by inserting "(including making appropriate requests to the Director of the Health Coverage Clearinghouse under section 2102)" after "all reasonable measures".

(d) COLLECTION OF THIRD PARTY PAYMENTS UNDER MATERNAL AND CHILD HEALTH BLOCK GRANT PROGRAM.—Section 505(a) (42 U.S.C. 705(a)) is amended—

(1) by striking "and" at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting "; and", and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) provides for an entity providing health services with assistance from the State under this title taking all reasonable steps—

"(A) to ascertain the legal liability of third parties to pay for such services, and

"(B) where such liability is found to exist, to seek reimbursement for such services.".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (d) shall take effect on April 1, 1995.

(2) The amendments made by subsection (c) shall apply to allotments for years beginning with fiscal year 1994.

SEC. 5118. MEDICAL CHILD SUPPORT.

(a) STATE PLAN REQUIREMENT.—Section 1902(a)(45) (42 U.S.C. 1396a(a)(45)) is amended by striking "owed to recipients" and inserting "and have in effect laws relating to medical child support".

(b) MEDICAL CHILD SUPPORT LAWS.—Section 1912 of such Act (42 U.S.C. 1396k) is amended—

(1) by adding at the end of the heading the following: "; REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT"; and

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

"(c) The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(45), are as follows:

"(1) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that the child was born out of wedlock, on the ground that the child may not be claimed as a dependent on the parent's Federal income tax return, or on the ground that the child does not reside with the parent or in the insurer's service area. In this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(2) A law that requires an insurer, in any case in which a parent is required by court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through the insurer—

"(A) to permit such parent, upon application and without regard to any enrollment season restrictions, to enroll the parent and such child under such family coverage;

"(B) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(C) not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(3) A law that requires an employer doing business in the State, in the case of health coverage offered through employment with the employer and providing coverage of a child of an employee pursuant to a court or administrative order, to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (to the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act) and to pay such share of premiums to the insurer.

"(4) A law that prohibits an insurer from imposing requirements upon a State agency, which is acting as an agent or subrogee of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or subrogee of any other individual so covered.

"(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(B) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(C) to make payment on claims submitted in accordance with subparagraph (B) directly to the custodial parent or the provider.

"(6) A law that requires the State agency under this title to garnish the wages, salary, or other employment income of, and to withhold amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(B) has received payment from a third party for the costs of such services to such child, but

"(C) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section apply to calendar quarters beginning on or after April 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

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

PART V—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS

SEC. 5121. ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS.

(a) DISPROPORTIONATE SHARE HOSPITALS REQUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r–4) is amended—

(1) in subsection (a)(1)(A), by striking "requirement" and inserting "requirements";

(2) in subsection (b)(1), by striking "requirement" and inserting "requirements";

(3) in the heading to subsection (d), by striking "REQUIREMENT" and inserting "REQUIREMENTS";

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

"(3) No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.";

(5) in subsection (e)(1)—

(A) by striking "and" before "(B)", and

(B) by inserting before the period at the end the following: ", and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the fourth sentence of subsection (c)"; and

(6) in subsection (e)(2)—

(A) in subparagraph (A), by inserting "(other than the fourth sentence of subsection (c))" after "(c)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking the period at the end of subparagraph (B) and inserting ", and", and

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

"(C) subsection (d)(3) shall apply.".

(b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS FOR STATE OR COUNTY HOSPITALS TO UNCOVERED COSTS.—Subsection (c) of such section is amended by adding at the end the following: "A payment adjustment during a year is not considered to be consistent with this subsection with respect to a hospital owned or operated by a State (or by an instrumentality of or a unit of government within a State) if the payment adjustment exceeds the costs of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance (or other source of third party payment) for such services during the year. For purposes of the preceding sentence, payments made to a hospital for services provided to indigent patients made by a State or a unit of local government within a State shall not be considered to be a source of third party payment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(1) the end of the State fiscal year that ends during 1994, or

(2) in the case of a State with a State legislature which is not scheduled to have a regular legislative session in 1994, the end of the State fiscal year that ends during 1995;

without regard to whether or not final regulations to carry out such amendments have been promulgated by either such date.

Subchapter B—Miscellaneous Provisions

PART I—ANTI-FRAUD AND ABUSE PROVISIONS

SEC. 5131. APPLICATION OF MEDICARE RULES LIMITING CERTAIN PHYSICIAN REFERRALS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 5174(b), is amended—

(A) in paragraph (12), by striking or at the end,

(B) in paragraph (13), by striking the period at the end and inserting "; or", and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) with respect to any amount expended for an item or service for which payment would be denied under section 1877(g)(1) if the item or service were furnished to an individual entitled to benefits under title XVIII.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 1993.

SEC. 5132. INTERMEDIATE SANCTIONS FOR KICKBACK VIOLATIONS.

(a) PENALTY FOR KICKBACKS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by adding "or" at the end of paragraph (3);

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

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);";

(4) by striking "given)." at the end of the first sentence and inserting "given or, in cases under paragraph (4), $50,000 for each such violation).";

(5) in the second sentence, by inserting "in cases under paragraphs (1), (2), and (3)," after "In addition,"; and

(6) by inserting after the second sentence, the following new sentence: "In cases under paragraph (4), such a person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b), determined without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.".

(b) AUTHORIZATION TO ACT.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is amended by striking all that follows "(b)" and inserting the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to remuneration offered, paid, solicited, or received before, on, or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

SEC. 5133. REQUIRING MAINTENANCE OF EFFORT FOR STATE MEDICAID FRAUD CONTROL UNITS.

(a) IN GENERAL.—Section 1902(a)(49) (42 U.S.C. 1396a(a)(49)) is amended—

(1) by inserting "(A)" after "(49)", and

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

"(B) provide that the State will expend for its medicaid fraud and abuse control unit (as defined in section 1903(q)), for each State fiscal year, an amount that is not less than the amount expended for such unit in the State fiscal year that ended in 1992 adjusted to reflect the percentage increase in total expenditures under the State plan between such State fiscal year and the State fiscal year involved;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to State fiscal years ending after 1993.

PART II—MANAGED CARE PROVISIONS

SEC. 5135. MEDICAID MANAGED CARE ANTI-FRAUD PROVISIONS.

(a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking "and" at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting "; and", and

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

"(xii) the entity complies with the requirements of paragraph (3) (relating to certain protections against fraud and abuse).";

(B) in paragraph (2)(B), as amended by section 5158(b), by striking "clause (ix)" and inserting "clauses (ix) and (xii)"; and

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

"(3)(A)(i) A health maintenance organization may not have a person described in clause (iv) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of organization's equity.

"(ii) A health maintenance organization may not have an employment, consulting, or other agreement with a person described in clause (iv) for the provision of goods and services that are significant and material to the organization's obligations under its contract with the State described in paragraph (2)(A)(iii).

"(iii) If a health maintenance organization is not in compliance with clause (i) or clause (ii)—

"(I) a State may continue an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(II) a State may not renew or otherwise extend the duration of an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(iv) A person described in this clause is a person that—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting, or

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subclause (I).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to agreements between a State and an entity under section 1903(m) of the Social Security Act entered into or renewed on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(b) REQUIREMENT FOR STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a)(1)(C), is amended—

(A) by striking "and" at the end of clause (xi),

(B) by striking the period at the end of clause (xii) and inserting "; and", and

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

"(xiii) the State certifies to the Secretary that it has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibility with respect to contracts with organizations under this subsection that are at least as effective as the Federal safeguards, provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply as of July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(c) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1)(C), is amended by adding at the end the following new subparagraph:

"(B) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that—

"(i) the entity agrees to report to the State such financial information as the Secretary or the State may require to demonstrate that the entity has a fiscally sound operation; and

"(ii) the entity agrees to make available to its enrollees upon reasonable request—

"(I) the information reported under paragraph (1),

"(II) the information required to be disclosed under sections 1124 and 1126, and

"(III) a description of each transaction, described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act, between the entity and a party in interest (as defined in section 1318(b) of such Act).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date, with respect to information reported or required to be disclosed, or transactions occurring, before, on, or after such date.

(d) PROHIBITING MARKETING FRAUD.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsection (c)(1), is amended by adding at the end the following new subparagraph:

"(C) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity agrees to comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years that begin on or after October 1, 1993, without regard to whether regulations to carry out such amendment are promulgated by such date.

(e) REQUIRING ADEQUATE EQUITY FOR FOR-PROFIT ENTITIES.—

(1) IN GENERAL.—Section 1903(m)(3), as previously amended by this section, is further amended by adding at the end the following new subparagraph:

"(D)(i) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall require, in the case of a for-profit entity, that the entity shall maintain an average ratio of—

"(I) equity capital to

"(II) payments made by the State to the entity under the contract on a capitation basis or any other risk basis,

of not less than such minimum ratio as the Secretary shall specify.

"(ii) The contract between the State and a non-profit entity referred to in paragraph (2)(A)(iii) shall require that no payment shall be made directly or indirectly under an agreement between the non-profit entity and a related for-profit entity (as defined by the Secretary) unless the for-profit entity maintains an average ratio of equity capital to payments under such agreement of not less than such ratio as the Secretary shall specify.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after July 1, 1994, without regard to whether regulations to carry out such amendment are promulgated by such date.

(f) REQUIRING ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting ", which meets such standards as the Secretary shall prescribe" after "satisfactory to the State".

(2) EFFECTIVE DATE AND TRANSITION.—(A) The amendment made by paragraph (1) shall apply to contract years beginning on or after July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(B) If the Secretary of Health and Human Services has not promulgated standards to carry out the amendment made by paragraph (1) by July 1, 1994, until such standards have been promulgated a provision of a health maintenance organization against the risk of insolvency shall not be considered to meet standards prescribed by the Secretary, for purposes of section 1903(m)(1)(A)(ii) of the Social Security Act, unless such provision has been found satisfactory by the Secretary under section 1876(b)(2)(E) of such Act.

(g) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—

(1) IN GENERAL.—Section 1903(m)(3), as previously amended by this section, is amended by adding at the end the following new subparagraph:

"(E) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) a financial statement of the entity's net earnings under the contract during the contract year, which statement has been audited using auditing standards established by the Secretary in consultation with the States; and

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the entity and entitled to medical assistance under the plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(h) REPORT ON NET EARNINGS OF CONTRACTORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the earnings of organizations with contracts to receive payment for providing medical assistance under title XIX of the Social Security Act on a prepaid capitation or any other risk basis. The report shall include the Secretary's recommendations on options for requiring such organizations, as a condition of participation under such title, to dedicate a portion of such earnings to the provision of additional benefits to individuals enrolled with the organization.

SEC. 5136. CLARIFICATION OF TREATMENT OF HMO ENROLLEES IN COMPUTING THE MEDICAID INPATIENT UTILIZATION RATE IN QUALIFYING HOSPITALS AS DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923(b)(2) (42 U.S.C. 1396r-4(b)(2)) is amended by inserting before the period at the end the following: "and whether or not the individual is enrolled with an entity contracting with the State on a prepaid capitation basis or other risk basis under section 1903(m)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans on and after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 5137. EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN.

Section 2 of Public Law 102-276 is amended by striking "January 31, 1994" and inserting "December 31, 1995".

SEC. 5138. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.

Section 6411(f) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 1 of Public Law 102-317, is amended by striking "January 31, 1994" and inserting "December 31, 1995".

SEC. 5139. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.

(a) IN GENERAL.—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described in subsection (b), if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on December 31, 1995.

SEC. 5140. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 507 of the Family Support Act of 1988, as amended by section 6411(j) of OBRA-1989 and by section 4733 of OBRA-1990, is amended by striking "1996" and inserting "1998".

(b) AUTHORITY TO IMPOSE PREMIUM.—

(1) IN GENERAL.—Notwithstanding section 1916 of the Social Security Act and subject to paragraph (2), the State of Minnesota may impose a premium on individuals receiving medical assistance under the Minnesota Prepaid Demonstration Project operated under a waiver granted by the Secretary of Health and Human Services under section 1115(a) of the Social Security Act and other individuals eligible under the State's plan for medical assistance under title XIX of such Act.

(2) LIMITATION ON AMOUNT OF PREMIUM.—In no case may the amount of any premium imposed on an individual receiving medical assistance under the State plan or under the Demonstration Project described in paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of the individual exceeds 110 percent of the income official poverty line (as defined by the Office of Management and Budget), and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

PART III—EMERGENCY SERVICES TO UNDOCUMENTED ALIENS

SEC. 5141. INCREASE IN FEDERAL FINANCIAL PARTICIPATION FOR EMERGENCY MEDICAL ASSISTANCE TO UNDOCUMENTED ALIENS.

(a) IN GENERAL.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, subject to 1903(v)(4), the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended by an eligible State in a covered fiscal year (as defined in section 1903(v)(4)(C)) as medical assistance for care and services described in section 1903(v)(2) to aliens described in section 1903(v)(1).".

(b) LIMITATION.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended by adding at the end the following new paragraphs:

"(4)(A) With respect to any eligible State (as defined in subparagraph (C)(i)), the amount of the increase in payments to a State under subsection (a) in a covered fiscal year (as defined in subparagraph (C)(ii)), resulting from the increase in the Federal medical assistance percentage under the fourth sentence of section 1905(b), shall not exceed the State's allotment determined under subparagraph (B).

"(B)(i) The total of the allotments to all States for a covered fiscal year under this paragraph shall be $300,000,000.

"(ii) From the total allotment under clause (i) for a covered fiscal year, the Secretary shall determine the amount of the allotment for each eligible State. Subject to clause (iii), the amount of such allotment for such a fiscal year shall bear the same ratio to the total amount specified in clause (i) for the fiscal year as the ratio of—

"(I) the allotment to the State for fiscal year 1993 under section 204 of the Immigration Reform and Control Act of 1986, to

"(II) the total of such allotments for all such eligible States for fiscal year 1993.

"(iii) In the case of an eligible State which notifies the Secretary that an amount of its allotment will not be used by the State under this paragraph, the State's allotment shall be reduced by such amount and such amount shall be redistributed among the other eligible States in proportion to the amount otherwise allotted to such State under clause (ii).

"(C) For purposes of this paragraph and the fourth sentence of section 1905(b):

"(i) The term 'eligible State' means a State—

"(I) with a plan approved under this title (including a State which is providing medical assistance to its residents under a statewide waiver granted under section 1115), and

"(II) for which its allotment for fiscal year 1993 under section 204 of the Immigration Reform and Control Act of 1986 is at least 1 percent of the total of such allotments for all the States for fiscal year 1993.

"(ii) The term 'covered fiscal year' means only fiscal year 1994.

"(D) Nothing in this paragraph or the fourth sentence of section 1905(b) shall be construed as establishing entitlement authority (within the meaning of section 3(9) of the Congressional Budget Act of 1974) for any fiscal year other than a covered fiscal year.".

SEC. 5142. LIMITING FEDERAL MEDICAID MATCHING PAYMENT TO BONA FIDE EMERGENCY SERVICES FOR UNDOCUMENTED ALIENS.

(a) IN GENERAL.—Section 1903(v)(2) (42 U.S.C. 1396b(v)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

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

"(C) such care and services are not related to an organ transplant procedure.".

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by subsection (a) shall apply as if included in the enactment of OBRA–1986.

(2) The Secretary of Health and Human Services shall not disallow expenditures made for the care and services described in section 1903(v)(2)(C) of the Social Security Act, as added by subsection (a), furnished before the date of the enactment of this Act.

PART IV—MISCELLANEOUS PROVISIONS

SEC. 5144. INCREASE IN LIMIT ON FEDERAL MEDICAID MATCHING PAYMENTS TO PUERTO RICO AND OTHER TERRITORIES.

(a) IN GENERAL.—Paragraphs (1) through (5) of section 1108(c) (42 U.S.C. 1308(c)) are amended to read as follows:

"(1) Puerto Rico shall not exceed (A) $104,000,000 for fiscal year 1994 and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the twelve-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest $100,000;

"(2) the Virgin Islands shall not exceed (A) $3,425,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

"(3) Guam shall not exceed (A) $3,290,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

"(4) Northern Mariana Islands shall not exceed (A) $990,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000; and

"(5) American Samoa shall not exceed (A) $1,910,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with fiscal year 1994.

SEC. 5145. CRITERIA FOR MAKING DETERMINATIONS OF DENIAL OF FEDERAL MEDICAID MATCHING PAYMENTS TO STATES.

(a) IN GENERAL.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x)(1) In any case in which the Secretary proposes to disallow under section 1116(d) a claim by a State under this section and the State exercises its right of reconsideration under section 1116(d), the Departmental Appeals Board established in the Department of Health and Human Services shall, if such Board upholds the basis for the disallowance, determine whether the amount of the disallowance should be reduced. In making this determination, the Board shall take into account (to the extent the State makes a showing) factors which shall include—

"(A) the nature of the basis for the disallowance;

"(B) whether the amount of the disallowance is proportionate to the error or deficiency on which the disallowance is based;

"(C) whether the basis of the disallowance constitutes noncompliance that prevented or materially affected the provision of appropriate services to individuals eligible under this title; or

"(D) whether Federal guidance with respect to the action that is the basis for the proposed disallowance was insufficient and the State made good faith efforts to conform its action to the intent of the applicable Federal statute or regulation.

"(2) No disallowance shall be taken or upheld if the action of the State on which the disallowance would be based is consistent with its approved State plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

SEC. 5146. RENEWAL OF UNFUNDED DEMONSTRATION PROJECT FOR LOW-INCOME PREGNANT WOMEN AND CHILDREN.

(a) IN GENERAL.—Section 6407 of OBRA–89 is amended—

(1) in subsection (d), by striking "3 years" and inserting "5 years";

(2) in subsection (f), by striking "$10,000,000 in each of fiscal years 1990, 1991, and 1992" and inserting "$30,000,000"; and

(3) in subsection (g)(2), by striking "January 1, 1994" and inserting "one year after the termination of the demonstration projects".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–89.

SEC. 5147. OPTIONAL MEDICAID COVERAGE OF TB-RELATED SERVICES FOR CERTAIN TB-INFECTED INDIVIDUALS.

(a) COVERAGE AS OPTIONAL, CATEGORICALLY NEEDY GROUP.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (X),

(2) by adding "or" at the end of subclause (XI), and

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

"(XII) who are described in subsection (z)(1) (relating to certain TB-infected individuals);".

(b) GROUP AND BENEFIT DESCRIBED.—Section 1902 is amended by adding at the end the following new subsection:

"(z)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i)—

"(A) who have tested positively to be infected with tuberculosis;

"(B) whose income (as determined under the State plan under this title with respect to disabled individuals) does not exceed the maximum amount of income a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan; and

"(C) whose resources (as determined under the State plan under this title with respect to disabled individuals) do not exceed the maximum amount of resources a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan.

"(2) For purposes of subsection (a)(10), the term 'TB-related services' means each of the following services relating to treatment of infection with tuberculosis:

"(A) Prescribed drugs.

"(B) Physicians' services and services described in section 1905(a)(2).

"(C) Laboratory and X-ray services.

"(D) Clinic services and Federally-qualified health center services.

"(E) Case management services (as defined in section 1915(g)(2)).

"(F) Services (other than room and board) designed to encourage completion of regimens of prescribed drugs by outpatients, including services to observe directly the intake of prescribed drugs.".

(c) LIMITATION ON BENEFITS.—Section 1902(a)(10), as amended by section 5162(a), is amended, in the matter following subparagraph (F)—

(1) by striking ", and (XII)" and inserting ", (XII)", and

(2) by inserting before the semicolon at the end the following: ", and (XIII) the medical assistance made available to an individual described in subsection (z)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XII) shall be limited to medical assistance for TB-related services (as defined in subsection (z)(2))".

(d) CONFORMING EXPANSION OF CASE MANAGEMENT SERVICES OPTION.—Section 1915(g)(1) (42 U.S.C. 1396n(g)(1)) is amended by inserting "or to individuals described in section 1902(z)(1)(A)," after "or with either,".

(e) CONFORMING AMENDMENT.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking "or" at the end of clause (ix),

(2) by adding "or" at the end of clause (x),

(3) by inserting after clause (x) the following new clause:

"(xi) individuals described in section 1902(z)(1),", and

(4) by amending paragraph (19) to read as follows:

"(19) case management services (as defined in section 1915(g)(2)) and TB-related services described in section 1902(z)(2)(F);".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 5148. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C. 1396a(a)(9)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and

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

"(D) that any mammography paid for under such plan must be conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act;".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to mammography furnished by a facility during calendar quarters beginning on or after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5149. REMOVAL OF SUNSET ON EXTENSION OF ELIGIBILITY FOR WORKING FAMILIES.

Subsection (f) of section 1925 (42 U.S.C. 1396r–6) is repealed.

SEC. 5150. EXTENSION OF MORATORIUM ON TREATMENT OF CERTAIN FACILITIES AS INSTITUTIONS FOR MENTAL DISEASES.

Effective as if included in the enactment of OBRA–1989, section 6408(a)(3) of such Act is amended by striking "180 days" and all that follows and inserting "December 31, 1995.".

SEC. 5150A. TREATMENT OF CERTAIN CLINICS AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)), as amended by section 5158(c), is amended—

(1) by striking "or" at the end of clause (ii)(II),

(2) by adding "or" at the end of clause (iii), and

(3) by inserting after clause (iii) the following new clause:

"(iv) was treated by the Secretary, for purposes of part B of title XVIII, as a comprehensive Federally funded health center as of January 1, 1990;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after July 1, 1993.

SEC. 5150B. NURSING HOME REFORM.

(a) SUSPENSION OF DECERTIFICATION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(1) IN GENERAL.—Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA–1990.

(b) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS OF USE OF DRUGS.—

(1) IN GENERAL.—Section 1919(c)(1)(D) (42 U.S.C. 1396r(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the previous sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA–1987.

(c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking "$50" and inserting "$100".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1993.

(d) DUE PROCESS PROTECTIONS FOR NURSE AIDES.—

(1) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSE AIDE REGISTRY.—Section 1919(e)(2)(B) (42 U.S.C. 1396r(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(2) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1919(g)(1)(C) (42 U.S.C. 1396r(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1993.

Subchapter C—Miscellaneous and Technical Corrections Relating to OBRA–1990

SEC. 5151. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subchapter shall take effect as if included in the enactment of OBRA–1990.

SEC. 5152. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA–1990 is amended by striking "1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))" and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))".

SEC. 5153. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii), as added by section 4501(b)(3) of OBRA–1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B), as amended by section 4501(c)(1) of OBRA–1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

SEC. 5154. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII), as added by section 4601(a)(10)(A)(iii) of OBRA–1990, is amended by striking "family;" and inserting "family; and".

(b) Section 1902(l), as amended by section 4601(a)(1)(C) of OBRA–1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII),," and inserting "(a)(10)(A)(i)(VII),"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VI),".

(c) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925, as amended by section 4601(a) of OBRA–1990, are each amended by striking "(i)(VI)" and inserting "(i)(VI),".

SEC. 5155. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).

(a) Section 1902(a)(55), as added by section 4602(a)(3) of OBRA–1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "subsection" and inserting "paragraph", and

(B) by striking "(a)" each place it appears; and

(2) in subparagraph (A), by striking "1905(1)(2)(B)" and inserting "1905(l)(2)(B)".

(b) Section 1902(l)(1) is amended by striking "who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and".

SEC. 5156. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) is amended in clause (X) in the matter following subparagraph (F) by striking "under one year of age" and inserting "under 6 years of age".

(b) Section 1902(s), as added by section 4604(a) of OBRA–1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1)).".

(c) Section 1923(a)(2)(C) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.".

SEC. 5157. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA–1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

SEC. 5158. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A), as added by section 4704(b)(1)(C) of OBRA–1990, is amended—

(1) by striking "of such center" the first place it appears;

(2) by striking "federally qualified" and inserting "Federally-qualified";

(3) by inserting "section" before "1905(a)(2)(C)"; and

(4) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B), as amended by section 4704(b)(2) of OBRA–1990, is amended by striking "except with respect to clause (ix) of subparagraph (A)," and inserting "(except with respect to clause (ix) of such subparagraph)".

(c) Section 1905(l)(2), as amended by section 4704(c) of OBRA–1990, is amended—

(1) in subparagraph (A)—

(A) by striking "Federally-qualifided" and inserting "Federally-qualified", and

(B) by striking "an patient" and inserting "a patient"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "a entity" and inserting "an entity",

(B) by striking "or" at the end of clause (i),

(C) by striking the semicolon at the end of clause (ii)(II) and inserting ", or",

(D) by moving clause (ii) 4 ems to the left, and

(E) in the last sentence, by striking "clause (ii)" and inserting "clause (iii)".

SEC. 5159. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

Section 1902(a)(32)(C), as added by section 4708(a)(3) of OBRA–1990, is amended to read as follows:

"(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this clause for payment to the first physician.".

SEC. 5160. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929, as added by section 4711(b) of OBRA–1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

(4) in subsection (e)(2)(B), by striking "fiscal year 1989" and inserting "fiscal year 1990";

(5) in subsection (f)(1), by striking "Community care" and inserting "community care";

(6) in subsection (g)(1)—

(A) by striking "SETTINGS" and inserting "SETTING", and

(B) in subparagraph (B), by striking "setting." and inserting "setting in which home and community care under this section is provided.";

(7) in subsection (g)(2), by striking "community care" the second, third, and fourth places it appears and inserting "home and community care";

(8) in subsection (h)(1)—

(A) by striking "more than 8" each place it appears and inserting "8 or more", and

(B) in subparagraph (B), by inserting "(other than merely board)" after "personal services";

(9) in subsection (h)(2), by striking "community care" the second and third places it appears and inserting "home and community care";

(10) in subsection (j)(1)—

(A) in subparagraph (B)(ii), by striking "1990" and inserting "1991", and

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

"(C) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A) and (B) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.";

(11) in subsection (j)(2), by adding at the end the following new subparagraph:

"(D) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A), (B), and (C) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.";

(12) in subsection (k)(1)(A)(i)—

(A) by striking "(d)(2)(E)" and inserting "(d)(2)", and

(B) by striking "settings," and inserting "settings),";

(13) in subsection (l), by striking "State wideness" and inserting "Statewideness";

(14) in subsection (m)—

(A) in paragraph (2), by striking "Individual Community Care Plan" and inserting "individual community care plan",

(B) in paragraph (3), by striking "and need for services" and inserting "need for services, and income",

(C) in the second sentence in paragraph (4), by striking "elderly individuals" and all that follows and inserting "individuals receiving home and community care under this section who reside in such State in relation to the total number of individuals receiving home and community care under this section.", and

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

"(5) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

"(A) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for a fiscal year (beginning with fiscal year 1994), a State shall submit a notice to the Secretary of its intention to provide such care under this section not later than 3 months before the beginning of the fiscal year.

"(B) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under subparagraph (A) for the fiscal year of the amount of Federal medical assistance that will be available to the State for the fiscal year (as established under paragraph (4)).";

and

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

"(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term 'community care setting' means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).".

(b) Section 1905(r)(5) is amended by striking "1905(a)" and inserting "subsection (a) (other than services described in paragraph (22) or (23) of such subsection)".

(c) Section 4711(f) of OBRA–1990 is amended by striking "Act" each place it appears and inserting "section".

SEC. 5161. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES).

(a) Section 1930, as added by section 4712(b)(2) of OBRA–1990, is amended—

(1) in subsection (b)—

(A) by striking "title the term," and inserting "title, the term",

(B) by striking "guardian" and inserting "guardian or", and

(C) by striking "3 other" and inserting "3";

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "program," and inserting "program", and

(B) in the second sentence, by striking "plan" each place it appears and inserting "program"; and

(3) in subsection (i), by striking "FUNDS" and inserting "FUNDS".

(b) Section 4712(c) of OBRA–1990 is amended—

(1) in paragraph (1), by inserting "of section 1930 of the Social Security Act" after "subsection (h)"; and

(2) in paragraph (2), by striking "this section" and inserting "such section".

SEC. 5162. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).

(a) Section 1902(a)(10) is amended in the matter following subparagraph (F)—

(1) by striking "; and (XI)" and inserting ", (XI)";

(2) by striking "individuals, and (XI)" and inserting "individuals, and (XII)"; and

(3) by striking "COBRA continuation premiums" and inserting "COBRA premiums".

(b) Section 1902(u)(3), as added by section 4713(a)(2) of OBRA–1990, is amended by striking "title VI" and inserting "part 6 of subtitle B of title I".

SEC. 5163. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA–1990 is amended by striking "AMENDMENTS.—Subsection (f) of section" and inserting "IN GENERAL.—Section".

SEC. 5164. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPENDDOWN OPTION).

Section 1903(f)(2), as amended by section 4723(a) of OBRA–1990, is amended—

(1) by striking "(A)" after "(2)";

(2) by striking "or, (B)" and inserting ". There shall also be excluded,";

(3) by striking "to the State, provided that" and inserting "to the State if"; and

(4) by striking "pursuant to this subparagraph." and inserting "pursuant to the previous sentence".

SEC. 5165. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v), as added by section 4724 of OBRA–1990, is amended—

(1) by striking "(v)(1)" and inserting "(v)"; and

(2) by striking "of the Social Security Act".

SEC. 5166. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i), as amended by section 4732(b)(2)(B) of OBRA–1990, is amended by striking "or" before "with an eligible organization".

SEC. 5167. CORRECTIONS RELATING TO SECTION 4741 (HOME AND COMMUNITY-BASED WAIVERS).

The first sentence of section 1915(d)(3) is amended by striking the period at the end and inserting the following: ", and a waiver of the requirements of section 1902(a)(23) (relating to choice of providers) insofar as such requirements relate to the provision of case management services and the State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services)."

SEC. 5168. CORRECTIONS RELATING TO SECTION 4744 (FRAIL ELDERLY WAIVERS).

(a) Section 1924(a)(5), as added by section 4744(b)(1) of OBRA–1990, is amended by striking "1986." and inserting "1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.".

(b) Section 603(c) of the Social Security Amendments of 1983 is amended—

(1) by striking "(c)" and inserting "(c)(1)";

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

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

"(2) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

SEC. 5169. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA–1990 is amended—

(1) in subsection (a), by striking "subsection (c)" and inserting "subsection (b)";

(2) in subsection (b)(2)—

(A) by striking "preventative" each place it appears and inserting "preventive", and

(B) by adding a period at the end of subparagraph (J);

(3) in subsection (c)(1)—

(A) by striking "subsection (c)" and inserting "subsection (b)", and

(B) by striking "paragraphs (1) and (2) of"; and

(4) in subsection (d)—

(A) by striking "paragraph (3)" and inserting "subsection (b)", and

(B) by striking "paragraph (1)" and inserting "subsection (a)".

SEC. 5170. CORRECTION RELATING TO SECTION 4751 (ADVANCE DIRECTIVES).

Section 1903(m)(1)(A), as amended by section 4751(b)(1) of OBRA–1990, is amended—

(1) by striking "1902(w)" and inserting "1902(w) and"; and

(2) by striking "1902(a)" and inserting "1902(w)".

SEC. 5171. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).

(a) The paragraph (58) of section 1902(a) added by section 4752(c)(1)(C) of OBRA–1990 is amended by striking "subsection (v)" and inserting "subsection (x)".

(b) Subparagraphs (A) and (B) of the paragraph (14) of section 1903(i) added by section 4752(e)(2) of OBRA–1990 are each amended—

(1) by striking "or" at the end of clause (v);

(2) by redesignating clause (vi) as clause (vii); and

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

"(vi) delivers such services in the emergency department of a hospital participating in the state plan approved under this title, or".

SEC. 5172. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I), as amended by section 4801(e)(3) of OBRA–1990, is amended by striking "no later than" before "not to exceed 14 days".

(b) Section 1919(b)(5)(D), as amended by section 4801(a)(4) of OBRA–1990, is amended by striking the comma before "or a new competency evaluation program.".

(c) Section 1919(b)(5)(G) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(d) Section 1919(f)(2)(B)(i) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(e) Section 1919(f)(2)(B)(iii)(I)(c) is amended by striking "clauses" each place it appears and inserting "clause".

(f) Section 1919(g)(5)(B) is amended by striking "paragraphs" and inserting "paragraph".

(g) Section 4801(a)(6)(B) of OBRA–1990 is amended—

(1) by striking "The amendments" and inserting "(i) The amendments";

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

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

"(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.".

SEC. 5173. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) is amended—

(1) in the first sentence, by striking "intermediate care facility services" and inserting "for nursing facility services or intermediate care facility services for the mentally retarded"; and

(2) in the second sentence, by striking "or intermediate care facility" and inserting "(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded".

(b) Section 1915(d) is amended—

(1) by striking "skilled nursing facility or intermediate care facility" each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting "nursing facility";

(2) in paragraph (2)(B)(i), by striking "skilled nursing or intermediate care facility" and inserting "nursing facility";

(3) in paragraph (5)(A), by striking "under" the second place it appears and inserting "(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under"; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking "furnished" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished"; and

(B) in clause (iii)(I), by striking "(regardless" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless".

SEC. 5174. CORRECTIONS TO DESIGNATIONS OF NEW PROVISIONS.

(a) PARAGRAPHS ADDED TO SECTION 1902(a).—Section 1902(a) is amended—

(1) by striking "and" at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA–1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA–1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA–1990, immediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA–1990, by striking the period at the end and inserting "; and"; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA–1990

as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(b) PARAGRAPHS ADDED TO SECTION 1903(i).—Section 1903(i), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) in the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, by striking all that follows "1927(g)" and inserting a semicolon;

(2) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA–1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, and by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA–1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting "; or"; and

(4) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA–1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3).

(c) PARAGRAPHS ADDED TO SECTION 1905(a).—

(1) IN GENERAL.—Section 1905(a) is amended—

(A) by striking "and" at the end of paragraph (21);

(B) in paragraph (24), by striking the period at the end and inserting "; and"; and

(C) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24) after paragraph (23), as so redesignated.

(2) CONFORMING AMENDMENTS.—(A) Effective July 1, 1991, section 1902(a)(10)(C)(iv), as amended by section 4755(c)(1)(A) of OBRA–1990, is amended by striking "through (21)" and inserting "through (23)".

(B) Effective July 1, 1991, section 1902(j), as amended by section 4711(d)(1) of OBRA–1990, is amended by striking "through (22)" and inserting "through (24)".

(d) FINAL SECTIONS.—Section 1928, as redesignated by section 4401(a)(3) of OBRA–1990, is amended—

(1) by transferring such section to the end of title XIX of the Social Security Act; and

(2) by redesignating such section as section 1931.

CHAPTER 2—UNIVERSAL ACCESS TO CHILDHOOD IMMUNIZATIONS

SEC. 5181. ESTABLISHMENT OF ENTITLEMENT AND MONITORING PROGRAMS WITH RESPECT TO CHILDHOOD IMMUNIZATIONS.

(a) IN GENERAL.—Title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) is amended by adding at the end the following subtitle:

"Subtitle 3—Entitlement and Monitoring Programs With Respect to Childhood Immunizations

"PART A—ENTITLEMENT PROGRAM

"SEC. 2151. DELIVERY TO STATES OF SUFFICIENT QUANTITIES OF PEDIATRIC VACCINES.

"(a) IN GENERAL.—In the case of any State that submits to the Secretary an application in accordance with section 2157, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall provide for the purchase and delivery on behalf of the State of such quantities of pediatric vaccines as may be necessary for the immunization of each eligible child in the State. The preceding sentence is subject to sections 2152(d) and 2159(a).

"(b) ELIGIBLE CHILDREN.—For purposes of this part, the term 'eligible child' means an individual 18 years of age or younger who—

"(1) with respect to the State involved, is entitled to medical assistance under the plan approved for the State under title XIX of the Social Security Act (including a State operating under a statewide waiver under section 1115 of such Act);

"(2)(A) is uninsured with respect to health insurance policies or plans (including group health plans or prepaid health plans and including employee welfare benefit plans under the Employee Retirement Income Security Act of 1974); or

"(B) is covered under such a policy or plan, but under the policy or plan benefits are not available with respect to immunizations; or

"(3) is an Indian.

"SEC. 2152. ENTITLEMENTS.

"(a) ENTITLEMENT OF STATES.—Subject to subsection (d), in the case of any State that submits to the Secretary an application in accordance with section 2157, the State is entitled to have the Secretary provide for the purchase and delivery on behalf of the State of pediatric vaccines under section 2151. The preceding sentence constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the purchase and delivery to the State of the vaccines.

"(b) ENTITLEMENTS OF CHILDREN AND HEALTH CARE PROVIDERS.—Subject to subsection (d), the Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees as follows:

"(1) Each eligible child in the State, in receiving an immunization with a pediatric vaccine from a program-registered provider (as defined in section 2153(a)), is entitled to receive the immunization without charge for the cost of such vaccine.

"(2) Each program-registered provider in the State who administers a pediatric vaccine to an eligible child in the State is entitled to receive such vaccine from the State without charge.

"(3) The State will carry out a program to administer the entitlements established pursuant to paragraphs (1) and (2).

"(c) ENFORCEMENT OF PROVIDER RIGHTS BY ELIGIBLE CHILDREN.—With respect to the obligation of a State under the entitlement established in subsection (b)(2), an eligible child (or representative of the child) may enforce the rights of the provider under such paragraph if—

"(1) the provider administered a pediatric vaccine to the child notwithstanding the failure of the State to carry out such obligation with respect to the vaccine; or

"(2) an immunization with the vaccine was sought for the child by a parent of the child, but the provider, on the basis of such failure of the State, did not administer the vaccine to the child.

"(d) CERTAIN CONDITIONS.—

"(1) IN GENERAL.—This part does not apply with respect to any vaccine administered before October 1, 1994.

"(2) RELATIONSHIP TO PURCHASE CONTRACTS WITH MANUFACTURERS.—With respect to a pediatric vaccine, the obligation of the Federal Government pursuant to subsection (a), and the obligations of the State pursuant to subsection (b), are effective only to the extent that there is in effect a contract under section 2158 for the purchase and delivery of the vaccine.

"(3) SUBMISSION OF APPLICATION.—

"(A) Subject to subparagraph (C), the entitlements established pursuant to subsections (a) and (b) are established with respect to a State upon the State submitting to the Secretary an application in accordance with section 2157.

"(B) An application submitted to the Secretary under section 2157 is deemed to have been submitted in accordance with such section unless the Secretary, not later than 30 days after the date on which the application is submitted, notifies the State that the application is not in accordance with such section.

"(C) In the case of a State whose application submitted under section 2157 is not submitted in accordance with such section, the Secretary may, upon the submission by the State of an application that is in accordance with such section, provide that the entitlements established pursuant to such submission are deemed to have been established on the date on which the State first submitted the application.

"SEC. 2153. VOLUNTARY PARTICIPATION OF HEALTH CARE PROVIDERS.

"(a) IN GENERAL.—

"(1) REQUEST FOR PARTICIPATION; REQUIRED APPROVAL.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees that federally-supplied pediatric vaccines will not be distributed to a health care provider unless—

"(A) the provider submits to the State a written request to participate in the program established by the State pursuant to section 2152(b)(3);

"(B) the request is in such form and is made in such manner as the Secretary may require; and

"(C) the provider makes the agreements described in this section.

"(2) PROGRAM-REGISTERED PROVIDERS.—For purposes of this part, the term 'program-registered provider' means a health care provider that meets the conditions specified in subparagraphs (A) through (C) of paragraph (1).

"(b) ELIGIBILITY OF CHILDREN.—

"(1) IN GENERAL.—An agreement for a health care provider under subsection (a) is that the provider—

"(A) before administering a pediatric vaccine to a child, will ask a parent of the child such questions as are necessary to determine whether the child is an eligible child;

"(B) will, for a period of time specified by the Secretary, maintain records of responses made to the questions; and

"(C) will, upon request, make such records available to the State involved and to the Secretary, subject to paragraph (2).

"(2) RESTRICTION ON USE OF INFORMATION.—Records provided to a State or to the Secretary under paragraph (1)(C) may be used only for purposes of audit of the program carried out under section 2152(b)(3) by the State.

"(c) CHARGES FOR VACCINES.—

"(1) VACCINES PER SE.—An agreement for a health care provider under subsection (a) is that, in administering a federally-supplied pediatric vaccine to an eligible child, the provider will not impose a charge for the cost of the vaccine.

"(2) ADMINISTRATION OF VACCINES.—With respect to compliance with an agreement under paragraph (1), a program-registered provider may impose a charge for the administration of a federally-supplied pediatric vaccine, subject to an agreement by the provider that the provider will not impose such

charge with respect to a child if a parent of the child certifies to the provider that the parent is unable to pay the charge.

"(d) RULES OF CONSTRUCTION.—

"(1) EXTENT OF PARTICIPATION.—This section may not be construed as requiring that a program-registered provider administer a federally-supplied pediatric vaccine to each eligible child for whom an immunization with the vaccine is sought from the provider.

"(2) VERIFICATION OF INFORMATION.—With respect to compliance with agreements under subsections (b) and (c), such agreements may not be construed as requiring a program-registered provider to verify independently the information provided to the provider by a parent pursuant to such subsections.

"SEC. 2154. INTRASTATE DISTRIBUTION OF PEDIATRIC VACCINES.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall, through publication in the Federal Register, establish criteria for the delivery on behalf of the States of federally-supplied pediatric vaccines to program-registered providers in the State.

"(b) INVOLVEMENT OF CERTAIN PROVIDERS.—

"(1) IN GENERAL.—In establishing criteria under subsection (a), the Secretary shall establish criteria with respect to encouraging the entities described in paragraph (2) to become program-registered providers.

"(2) RELEVANT PROVIDERS.—The entities referred to in paragraph (1) are—

"(A) private health care providers; and

"(B)(i) health care providers that receive funds under title V of the Indian Health Care Improvement Act;

"(ii) the Indian Health Service; and

"(iii) health programs or facilities operated by Indian tribes or tribal organizations.

"(c) CULTURAL CONTEXT OF SERVICES.—In establishing criteria under subsection (a), the Secretary shall require that, in providing a federally-supplied pediatric vaccine to any population of eligible children a substantial portion of whose parents have a limited ability to speak the English language, a State have in effect a reasonable plan to administer the vaccines through program-registered providers who are able to communicate with the population involved in the language and cultural context that is most appropriate.

"(d) COMPLIANCE BY STATES.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees to maintain compliance with the criteria established under subsection (a).

"SEC. 2155. GENERAL PROVISIONS.

"(a) FEDERAL STANDARDS ON ACCOUNTABILITY.—

"(1) ESTABLISHMENT OF STANDARDS.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall, through publication in the Federal Register, establish standards with respect to determining the extent to which States and program-registered providers are in compliance with the agreements made under this part.

"(2) COMPLIANCE BY STATES.— The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees to maintain compliance with the standards established under subsection (a).

"(b) STATE MAINTENANCE OF IMMUNIZATION LAWS.—The Secretary may provide for the purchase and delivery of vaccines under section 2151 on behalf of a State only if the State certifies to the Secretary that, if it had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

"(c) PARTICIPATION IN NATIONAL MONITORING SYSTEM.—On and after January 1, 1998, the Secretary may provide for the purchase and delivery of vaccines under section 2151 on behalf of a State only if the State certifies to the Secretary that the State is operating a registry in accordance with part B.

"SEC. 2156. STATE OPTION REGARDING IMMUNIZATION OF ADDITIONAL CATEGORIES OF CHILDREN.

"(a) STATE PURCHASES.—Subject to subsections (b) and (c), for the purpose of administering a pediatric vaccine to children in addition to eligible children, any participating State under section 2151 may, pursuant to section 2158(a)(2), purchase the vaccine from a manufacturer of the vaccine at the price in effect under section 2158.

"(b) REQUIREMENTS.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the following conditions are met:

"(1) The State agrees that the vaccines will be used to provide immunizations for children who are not eligible children.

"(2) The State designates the particular categories of children who are to receive the immunizations, and submits to the Secretary a description of the categories so designated.

"(3) The State provides to the Secretary such information as the Secretary determines to be necessary to provide for quantities of pediatric vaccines for the State to purchase pursuant to section 2158(a)(2).

"(4) The State agrees, subject to subsection (c), that the program established by the State pursuant to section 2152(b)(3) applies to children designated under paragraph (2) to the same extent and in the same manner as the program applies to eligible children (except for the State being the purchaser of the pediatric vaccines involved).

"(c) CERTAIN LIMITATIONS.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the State agrees as follows:

"(1) The authorization established in such subsection with respect to a pediatric vaccine is subject to the quantity of the vaccine that, on behalf of the State, the Secretary provides for under section 2158(a)(2).

"(2) In any case in which multiple contracts are in effect under section 2158 with respect to such a vaccine and the State elects to purchase the vaccine pursuant to subsection (a), the Secretary will determine which of such contracts will be applicable to the purchase.

"SEC. 2157. STATE APPLICATION FOR VACCINES.

"(a) IN GENERAL.—An application by a State for pediatric vaccines under section 2151(a) is in accordance with this section if the application—

"(1) is submitted not later than the date specified by the Secretary;

"(2) contains each agreement required in this part (including the agreements required in section 2156, if the State is electing to purchase pediatric vaccines pursuant to such section);

"(3) contains any information required in this part to be submitted to the Secretary (including the information required in section 2156, if the State is electing to purchase pediatric vaccines pursuant to such section);

"(4) contains the certification required in subsection (b) of section 2155 and, as applicable, the certification required in subsection (c) of such section; and

"(5) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) FAILURE TO APPLY.—

"(1) IN GENERAL.—If, as of January 1, 1998, a State is not receiving pediatric vaccines under section 2151 and carrying out a program pursuant to section 2152(b)(3), the Secretary shall, subject to paragraph (2), terminate payments to the State under part A of title XIX.

"(2) EXCEPTIONS.—Paragraph (1) does not apply in the case of a State described in such paragraph that—

"(A) is, through all willing health care providers, providing for the immunization of eligible children with pediatric vaccines, and is not imposing a charge on such providers or children for the costs of the vaccines; or

"(B) meets or exceeds the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States who are 2 years of age.

"SEC. 2158. CONTRACTS WITH MANUFACTURERS OF PEDIATRIC VACCINES.

"(a) IN GENERAL.—Subject to the provisions of this section, the Secretary shall periodically enter into negotiations with manufacturers of pediatric vaccines for the purpose of maintaining contracts under which—

"(1) the Secretary provides for the purchase of quantities of pediatric vaccines necessary for carrying out section 2151, and provides for the delivery of the vaccines to participating States under such section; and

"(2) each participating State, at the option of the State under section 2156, is permitted to obtain additional quantities of pediatric vaccines (subject to limits in such contracts regarding quantities) through purchasing the vaccines from the manufacturers at the price negotiated by the Secretary for the quantities specified in paragraph (1).

The Secretary shall enter into the initial negotiations under the preceding sentence not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

"(b) NEGOTIATION OF PURCHASE PRICE.—

"(1) IN GENERAL.—In negotiating the prices at which pediatric vaccines will be purchased from a manufacturer under subsection (a), the Secretary shall negotiate a price that provides a reasonable profit for the manufacturer.

"(2) CERTAIN FACTORS.—

"(A) In determining a reasonable profit for a manufacturer under paragraph (1), the Secretary shall consider the following factors:

"(i) The costs of the manufacturer in researching, developing, and producing the pediatric vaccine involved.

"(ii) The costs of the manufacturer in researching and developing new or improved vaccines (pediatric or otherwise).

"(iii) The costs of shipping and handling pediatric vaccines in compliance with the agreement under subsection (c).

"(iv) Such other factors as the Secretary determines to be appropriate.

"(B) With respect to factors considered under subparagraph (A), the Secretary may enter into a contract under subsection (a) only if the manufacturer involved provides to the Secretary such information regarding the factors as the Secretary determines to be appropriate.

"(3) CONFIDENTIALITY.—With respect to information provided to the Secretary by a

manufacturer under paragraph (2), the following applies:

"(A) The Secretary shall maintain the confidentiality of the information, with provision for reasonable disclosures.

"(B) For purposes of section 552(b)(4) of title 5, United States Code, the information shall be considered to be trade secrets and commercial or financial information obtained from a person and privileged or confidential.

"(C) Section 1905 of title 18, United States Code, applies to information maintained confidentially under subparagraph (A).

"(c) CHARGES FOR SHIPPING AND HANDLING.—The Secretary may enter into a contract under subsection (a) only if the manufacturer involved agrees that the manufacturer will provide for delivering the vaccines on behalf of the States in accordance with the programs established by the States pursuant to section 2152(b)(3), and will not impose any charges for the costs of such delivery (except to the extent such costs are provided for in the price negotiated under subsection (b)).

"(d) QUANTITY OF VACCINES.—For the purpose of ensuring that the Federal Government has the ability to carry out section 2151, the Secretary, in negotiations under subsection (a), shall negotiate for maintaining a supply of pediatric vaccines to meet unanticipated needs for the vaccines. For purposes of the preceding sentence, the Secretary shall negotiate for a 6-month supply of vaccines in addition to the quantity that the Secretary otherwise would provide for in such negotiations. In carrying out this paragraph, the Secretary shall consider the potential for outbreaks of the diseases with respect to which the vaccines have been developed.

"(e) NEGOTIATING AUTHORITY OF SECRETARY.—In carrying out subsection (a), the Secretary, to the extent determined by the Secretary to be appropriate, may enter into contracts described in such subsection, may decline to enter into such contracts, and with the consent of the manufacturers involved, may modify such agreements and may extend such agreements.

"(f) CERTAIN CONTRACT PROVISIONS.—

"(1) DURATION.—A contract entered into by the Secretary under subsection (a) is effective for such period as the Secretary and the manufacturer involved may agree in the contract.

"(2) ADVANCE FUNDING.—The Secretary may, pursuant to section 2152(a), enter into contracts under subsection (a) under which the Federal Government is obligated to make outlays, the budget authority for which is not provided for in advance in appropriations Acts.

"(g) REPORTS TO SECRETARY.—The Secretary may enter into a contract under subsection (a) only if the manufacturer involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to compliance with the contract. For purposes of paragraph (3) of subsection (b), such reports shall be considered to be information provided by the manufacturer to the Secretary under paragraph (2) of such subsection.

"(h) MULTIPLE SUPPLIERS.—

"(1) IN GENERAL.—In the case of the pediatric vaccine involved, the Secretary shall, as appropriate, enter into a contract under subsection (a) with each manufacturer of the vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

"(2) RULE OF CONSTRUCTION.—With respect to multiple contracts entered into pursuant to paragraph (1), such paragraph may not be construed as prohibiting the Secretary from having in effect different prices under each of such contracts.

"SEC. 2159. CERTAIN ADMINISTRATIVE VARIATIONS.

"(a) TRIBES AND TRIBAL ORGANIZATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the purchase and delivery on behalf of each Indian tribe and each tribal organization of such quantities of pediatric vaccines as may be necessary for the immunization of each Indian child in the State in which the tribe or organization (as the case may be) is located.

"(2) ENTITLEMENTS; ADMINISTERING PROGRAM.—The Secretary may provide for the purchase and delivery of pediatric vaccines under paragraph (1) on behalf of an Indian tribe or tribal organization only if the tribe or organization (as the case may be) agrees that this part applies to the tribe or organization (in relation to Indian children) to the same extent and in the manner as such part applies to States (in relation to eligible children).

"(b) STATE AS MANUFACTURER.—

"(1) PAYMENTS IN LIEU OF VACCINES.—In the case of a participating State under section 2151 that manufactures a pediatric vaccine and is not receiving the vaccine under such section, if the Secretary determines that the program of the State under 2152(b)(3) is carried out with respect to the vaccine, the Secretary shall provide to the State an amount equal to the value of the quantity of such vaccine that otherwise would have been delivered to the State under section 2151, subject to the provisions of this subsection.

"(2) DETERMINATION OF VALUE.—In determining the amount to pay a State under paragraph (1) with respect to a pediatric vaccine, the value of the quantity of vaccine shall be determined on the basis of the price in effect for the vaccine under contracts under section 2158. If more than 1 such contract is in effect, the Secretary shall determine such value on the basis of the average of the prices under the contracts, after weighting each such price in relation to the quantity of vaccine under the contract involved.

"(3) USE OF PAYMENTS.—A State may expend payments received under paragraph (1) only for purposes relating to pediatric vaccines.

"SEC. 2160. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

"(a) RECOMMENDED PEDIATRIC VACCINES.—

"(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

"(2) RULE OF CONSTRUCTION.—

"(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

"(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

"(b) RECOMMENDED SCHEDULE FOR ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

"(A) The number of immunizations with the vaccine that children should receive.

"(B) The ages at which children should receive the immunizations.

"(C) The dosage of vaccine that should be administered in the immunizations.

"(D) Any contraindications regarding administration of the vaccine to particular medical categories of children.

"(E) Such other guidelines as the Secretary determines to be appropriate with respect to administering the vaccine to children.

"(2) VARIATIONS IN MEDICAL PRACTICE.—In establishing and revising a schedule under paragraph (1), the Secretary shall ensure that, in the case of the pediatric vaccine involved, the schedule provides for the full range of variations in medical judgment regarding the administration of the vaccine, subject to remaining within medical norms.

"(3) RULE OF CONSTRUCTION.—

"(A) The schedule specified in subparagraph (B) is deemed to be the schedule maintained under paragraph (1).

"(B) The schedule specified in this subparagraph is the schedule that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the advisory committee specified in subsection (a)(2)(B).

"(c) GENERALLY APPLICABLE RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—The list established under subsection (a) and the schedules established under subsection (b) do not constitute guidelines, standards, performance measures, or review criteria for purposes of the program carried out by the Administrator for Health Care Policy and Research under part B of title IX or under section 1142 of the Social Security Act.

"(2) STATE LAWS.—This section does not supersede any State law on requirements with respect to receiving immunizations (including any such law relating to religious exemptions or medical exemptions).

"(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"SEC. 2161. CHILDHOOD IMMUNIZATION TRUST FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the National Childhood Immunization Trust Fund (in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund in appropriations Acts, in the Internal Revenue Code of 1986, or in subsection (c)(3). Amounts appropriated to the Fund shall remain available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for the purpose of carrying out this part. Payments under the program under this part, and the costs of carrying out such program, shall be exempt from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"SEC. 2162. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'eligible child' has the meaning given such term in section 2151(b).

"(2) The term 'federally-supplied', with respect to a pediatric vaccine, means that such vaccine is purchased and delivered on behalf of a State under section 2151(a).

"(3) The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

"(4) The term 'immunization' means an immunization against a vaccine-preventable disease.

"(5) Each of the terms 'Indian', 'Indian tribe', and 'tribal organization' has the meaning given such term in section 4 of the Indian Health Care Improvement Act.

"(6) The term 'Indian child' means an Indian who is 18 years of age or younger.

"(7) The term 'manufacturer' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any pediatric vaccine. The term 'manufacture' means to manufacture, import, process, or distribute a vaccine.

"(8) The term 'parent', with respect to a child, means a legal guardian of the child.

"(9) The term 'participating State under section 2151' means a State that has submitted to the Secretary an application in accordance with section 2157.

"(10) The term 'pediatric vaccine' means a vaccine included on the list established under section 2160(a).

"(11) The term 'program-registered provider' has the meaning given such term in 2153(a)(2).

"SEC. 2163. TERMINATION OF PROGRAM.

This part shall cease to be in effect beginning on such date as may be prescribed in Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.

"PART B—NATIONAL SYSTEM FOR MONITORING IMMUNIZATION STATUS OF CHILDREN

"SEC. 2171. FORMULA GRANTS FOR STATE REGISTRIES WITH RESPECT TO MONITORING.

"(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 2175. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 2174.

"(b) AUTHORIZED ACTIVITIES.—The Secretary may make a grant under subsection (a) only if the State agrees to expend the grant for the purpose of—

"(1) collecting the data described in section 2172;

"(2) operating registries to maintain the data (and establishing such registries, in the case of a State that is not operating such a registry);

"(3) utilizing the data to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2160(b);

"(4) notifying parents if children have not received immunizations in accordance with such schedule; and

"(5) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(c) REQUIREMENT REGARDING STATE LAWS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

"(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry; and

"(B) agrees that, prior to such date, the State will make such efforts to operate a registry in accordance with this part as may be authorized in the law and regulations of the State.

"(2) RULES OF CONSTRUCTION.—

"(A) With respect to the agreements made by a State under this part, other than the agreement under paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

"(B) This part does not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

"SEC. 2172. REGISTRY DATA.

"(a) IN GENERAL.—For purposes of section 2171(b)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c). This section applies to data regarding a child without regard to whether the child is an eligible child as defined in section 2162.

"(b) DATA REGARDING BIRTH OF CHILD.—With respect to the birth of a child, the data described in this subsection is as follows:

"(1) The name of each child born in the State involved on or after October 1, 1993.

"(2) Demographic data on the child.

"(3) The name of one or both of the parents of the child.

"(4) The address, as of the date of the birth of the child, of each parent whose name is received in the registry pursuant to paragraph (3).

"(c) DATA REGARDING INDIVIDUAL IMMUNIZATIONS.—With respect to a child to whom a pediatric vaccine is administered in the State involved, the data described in this subsection is as follows:

"(1) The name, age, and address of the child.

"(2) The date on which the vaccine was administered to the child.

"(3) The name and business address of the health care provider that administered the vaccine.

"(4) The address of the facility at which the vaccine was administered.

"(5) The name and address of one or both parents of the child as of the date on which the vaccine was administered, if such information is available to the health care provider.

"(6) The type of vaccine.

"(7) The number or other information identifying the particular manufacturing batch of the vaccine, if such information appears on the container or packaging for the vaccine or is otherwise readily accessible to the health care provider.

"(8) The dosage of vaccine that was administered.

"(9) A description of any adverse medical reactions that the child experienced in relation to the vaccine and of which the health care provider is aware.

"(10) Any other contraindications noted by the health care provider with respect to administration of the vaccine to the child.

"(11) Such other data regarding immunizations for the child, including identifying data, as the Secretary may require consistent with applicable law (including social security account numbers furnished pursuant to section 205(c)(2)(E) of the Social Security Act).

"(d) DATE CERTAIN FOR SUBMISSION TO REGISTRY.—The Secretary may make a grant under section 2171 only if the State involved agrees to ensure that, with respect to a child—

"(1) the data described in subsection (b) are submitted to the registry under such section not later than 6 weeks after the date on which the child is born; and

"(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry not later than 6 weeks after the date on which the vaccine is administered to the child.

"SEC. 2173. GENERAL PROVISIONS.

"(a) FEDERAL STANDARDS ON CONFIDENTIALITY.—The Secretary shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2171. Such standards shall, with respect to a State, provide that the State is to have in effect laws regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

"(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2171 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term 'related information' has the meaning given such term in clause (iv)(II) of such section.

"(c) UNIFORMITY IN METHODOLOGIES.—The Secretary shall establish standards regarding the methodologies used in establishing and operating registries under section 2171, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide for a reasonable degree of uniformity among the States in such methodologies for the purpose of ensuring the utility, comparability, and

exchange of the data maintained in such registries.

"(d) COORDINATION AMONG STATES.—The Secretary may make a grant under section 2171 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to cooperate with the Secretary and with other States in carrying out activities with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(e) REPORTS TO SECRETARY.—The Secretary may make a grant under section 2171 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

"SEC. 2174. APPLICATION FOR GRANT.

"An application by a State for a grant under section 2171 is in accordance with this section if the application—

"(1) is submitted not later than the date specified by the Secretary;

"(2) contains each agreement required in this part;

"(3) contains any information required in this part to be submitted to the Secretary; and

"(4) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2175. DETERMINATION OF AMOUNT OF ALLOTMENT.

"The Secretary shall determine the amount of the allotments required in section 2171 for States for a fiscal year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2177 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2171.

"SEC. 2176. DEFINITIONS.

"For purposes of this part, each of the terms 'health care provider,' 'pediatric vaccine' and 'parent' has the meaning given the term in section 2162.

"SEC. 2177. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000, for fiscal year 1994, $152,000,000 for fiscal year 1995, $125,000,000 for fiscal year 1996, and $35,000,000 for each of the fiscal years 1997 through 1999.

"PART C—FUNDING FOR OTHER PURPOSES REGARDING CHILDHOOD IMMUNIZATIONS

"SEC. 2181. GRANTS REGARDING YEAR 2000 HEALTH OBJECTIVES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States for the purpose of carrying out activities with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States, other than providing for the purchase and delivery on behalf of the State of any pediatric vaccine (as defined in section 2162).

"(b) CERTAIN ACTIVITIES.—Subject to subsection (a), the purposes for which a grant under such subsection may be expended include the following:

"(1) Research into the prevention and control of diseases that may be prevented through vaccination.

"(2) Demonstration projects for the prevention and control of such diseases.

"(3) Public information and education programs for the prevention and control of such diseases.

"(4) Education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

"(5) Such other activities as the Secretary determines to be appropriate.

"(c) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d) SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.— The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee.

When the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(e) AUTHORIZATION OF APPROPRIATIONS.— For the purpose of carrying out this part, there are authorized to be appropriated $580,000,000 for fiscal year 1993, $680,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.".

(b) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

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

"(E)(i) The Secretary and each State receiving grants under section 2171(a) of the Public Health Service Act may utilize social security account numbers issued by the Secretary under this subsection for purposes of—

"(I) operating registries under such section to maintain information including such numbers (and establishing such registries, in the case of a State that is not operating such a registry),

"(II) utilizing such numbers to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2160(b) of the Public Health Service Act, and

"(III) notifying parents if children have not received immunizations in accordance with such schedule.

"(ii) Disclosure by individuals of social security account numbers may be required by a State for purposes of identification of children in a registry operated pursuant to a grant referred to in clause (i), except that such disclosure may be required to be made only to persons specifically authorized in regulations of the Secretary prescribed under part B of subtitle 3 of title XXI of the Public Health Service Act. The Secretary shall take such actions as are necessary to restrict access to information consisting of such numbers and related information only to such authorized persons whose duties or responsibilities require access for the purposes described in clause (i). The Secretary shall issue regulations governing the use, maintenance, and disclosure by any holder of such information, including appropriate administrative, technical, and physical safeguards, to ensure that only such authorized persons have access to such information. Any use or disclosure of such information in violation of such regulations shall be deemed a disclosure in violation of subparagraph (C)(vii).

"(iii) The Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 1996, and biennially thereafter, on the operation of this subparagraph.

"(iv) For purposes of this subparagraph—

"(I) the term 'State' has the meaning provided such term under section 2(f) of the Public Health Service Act, and

"(II) the term 'related information' means any record, list, or compilation which indicates, directly or indirectly, the identity of any individual with respect to whom a social security account number is maintained pursuant to this subparagraph and part B of subtitle 3 of title XXI of the Public Health Service Act.".

(c) RELATIONSHIP OF NEW PROGRAM OF IMMUNIZATION GRANTS TO CURRENT PROGRAM.—

(1) STRIKING OF CURRENT PROGRAM.—Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended—

(A) in subsection (j)—

(i) by striking paragraph (1); and

(ii) by striking the remaining paragraph designation; and

(B) in subsection (k)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) TRANSITIONAL AUTHORITY UNDER NEW PROGRAM.—With respect to activities that the Secretary of Health and Human Services was authorized to carry out pursuant to section 317(j)(1) of the Public Health Service Act (as in effect on the day before the date of the enactment of this Act), the Secretary may, for fiscal year 1994, carry out any such activity under section 2181 of the Public Health Service Act (as added by subsection (a) of this section), notwithstanding the provisions of such section 2181. The authority established in the preceding sentence includes the authority to purchase vaccines.

(d) CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.—

(1) REQUIREMENT.—The requirement of this paragraph, with respect to a group health plan for plan years beginning after the date of the enactment of this Act, is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.

(2) ENFORCEMENT.—

(A) For purposes of section 2207 of the Public Health Service Act, the requirement of paragraph (1) is deemed a requirement of title XXII of such Act.

(B) For purposes of subsections (a) through (e) of section 4980B of the Internal Revenue Code of 1986, paragraph (1) is deemed a requirement of subsection (f) of such section.

SEC. 5182. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) USE OF VACCINE INJURY COMPENSATION TRUST FUND.—Section 6601(r) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "$2,500,000 for each of fiscal years 1991 and 1992" each place it appears and inserting "$3,000,000 for fiscal year 1994 and each fiscal year thereafter" (in three places).

(b) AMENDMENT OF VACCINE INJURY TABLE.—Section 2116(b) of the Public Health Service Act (42 U.S.C. 300aa–16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(c) EXTENSION OF TIME FOR DECISION.—Section 2112(d)(3)(D) of such Act (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for no more than 6 months at a time)".

(d) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(1) Section 2126(b) of such Act (42 U.S.C. 300aa–26(b)) is amended—

(A) by striking "by rule" in the matter preceding paragraph (1);

(B) by striking, in paragraph (1), ", opportunity for a public hearing, and 90" and inserting "and 30"; and

(C) by striking, in paragraph (2), ", appropriate health care providers and parent organizations".

(2) Section 2126(c) of such Act (42 U.S.C. 300aa–26(c)) is amended—

(A) by inserting "shall be based on available data and information," after "such materials" in the matter preceding paragraph (1), and

(B) by striking paragraphs (1) through (10) and inserting the following:

"(1) a concise description of the benefits of the vaccine,

"(2) a concise description of the risks associated with the vaccine,

"(3) a statement of the availability of the National Vaccine Injury Compensation Program, and

"(4) such other relevant information as may be determined by the Secretary.".

(3) Subsections (a) and (d) of section 2126 of such Act (42 U.S.C. 300aa–26) are each amended by inserting "or to any other individual" after "to the legal representatives of any child".

(4) Subsection (d) of section 2126 of such Act (42 U.S.C. 300aa–26) is amended—

(A) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases.", and

(B) by striking "or other information" in the last sentence.

SEC. 5183. MEDICAID IMMUNIZATION PROVISIONS.

(a) OUTREACH AND EDUCATION.—

(1) IMMUNIZATION OUTREACH THROUGH EPSDT PROGRAM.—Section 1902(a)(43)(A) (42 U.S.C. 1396a(a)(43)(A)) is amended by inserting before the comma at the end the following: "and the need for age-appropriate immunizations against vaccine-preventable diseases".

(2) COORDINATION WITH MATERNAL AND CHILD HEALTH BLOCK GRANT PROGRAMS AND WIC PROGRAMS.—Section 1902(a)(11) (42 U.S.C. 1396a(a)(11)) is amended—

(A) in clause (B)—

(i) by striking "effective July 1, 1969,",

(ii) by striking "and" before "(ii)", and

(iii) by striking "to him under section 1903" and inserting "to the individual under section 1903, and (iii) providing for coordination of information and education on childhood vaccinations and delivery of immunization services"; and

(B) in clause (C), by inserting "(including the provision of information and education on childhood vaccinations and the delivery of immunization services)" after "operations under this title".

(3) COVERAGE OF PUBLIC HOUSING HEALTH CENTERS AS FEDERALLY-QUALIFIED HEALTH CENTERS.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended by striking "or 340" each place it appears and inserting "340, or 340A".

(4) EFFECTIVE DATE.—(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

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

(b) SCHEDULE OF IMMUNIZATIONS UNDER EPSDT.—

(1) IN GENERAL.—Section 1905(r)(1) (42 U.S.C. 1396d(r)(1)) is amended—

(A) in subparagraph (A)(i), by inserting "and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule recommended by the Secretary under section 2160 of the Public Health Service Act" after "child health care"; and

(B) in subparagraph (B)(iii), by inserting "(according to the schedule recommended by the Secretary under section 2160 of the Public Health Service Act)" after "appropriate immunizations".

(2) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B) of paragraph (1) shall first apply 90 days after the date the Secretary of Health and Human Services first issues the recommended schedule referred to in subparagraphs (A)(i) and subparagraph (B)(iii) of section 1905(r)(1) of the Social Security Act (as amended by such respective subparagraphs).

(c) ASSURING ADEQUATE PAYMENT RATES FOR ADMINISTRATION OF VACCINES TO CHILDREN.—

(1) PAYMENT RATES.—Section 1926(a)(4)(B) (42 U.S.C. 1396r-7(a)(4)(B)) is amended by inserting "(including the administration of vaccines)" after "means services".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the plan amendment required to be submitted under section 1926(a)(2) of the Social Security Act by not later than April 1, 1994.

(d) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTIGEN VACCINE.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by sections 5174(b) and 5131(a), is amended—

(A) in paragraph (13), by striking "or" at the end,

(B) in paragraph (14), by striking the period at the end and inserting "; or", and

(C) by inserting after paragraph (14) the following new paragraph:

"(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined-antigen vaccine was medically appropriate (as determined by the Secretary).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to amounts expended for vaccines administered on or after October 1, 1993.

(e) REQUIRING MEDICAID MANAGED CARE PLANS TO COMPLY WITH IMMUNIZATION AND OTHER EPSDT REQUIREMENTS.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A), as amended by subsections (a)(1) and (b)(1) of section 5135—

(i) by striking "and" at the end of clause (xii),

(ii) by striking the period at the end of clause (xiii) and inserting "; and", and

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

"(xiv) the entity complies with the requirements of paragraph (7) (relating to EPSDT compliance).".; and

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

"(7) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall—

"(A) specify which early and periodic screening, diagnostic, and treatment services are to be provided under the contract to individuals under age 21 enrolled with the entity;

"(B) in the case of such services which are not to be so provided, specify the steps the entity will take (through referrals or other arrangements) to assure that such individuals will receive such services; and

"(C) require the entity to submit such periodic reports as may be necessary to enable the State to prepare and submit timely reports under section 1902(a)(43)(D) and section 506(a)(2).".

(2) APPLICATION OF INTERMEDIATE SANCTIONS FOR FAILURE TO PROVIDE IMMUNIZATIONS AND OTHER EPSDT SERVICES.—Section 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is amended—

(A) by striking ", or" at the end of clause (iv) and inserting a semicolon,

(B) by striking the comma at the end of clause (v) and inserting "; or", and

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

"(vi) fails substantially to provide early and periodic screening, diagnostic, and treatment services to the extent specified in the contract under paragraph (7)(A);".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contract years beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(f) TRANSITION RULE.—

(1) MEDICAID USE OF CDC CONTRACT PRICE.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, enter into a contract for

the purchase by the Centers for Disease Control and Prevention of pediatric vaccines for distribution (as provided for in section 317 or section 2181 of the Public Health Service Act) unless such contract provides that the charge for such vaccines, for which medical assistance is provided under a State plan under title XIX of the Social Security Act, will not exceed the price negotiated under the contract. The previous sentence shall not apply, with respect to a vaccine for which medical assistance is provided by a State, on and after such date as the State becomes entitled to have the Secretary provide for the purchase and delivery on behalf of the State of that vaccine under section 2151 of the Public Health Service Act.

(2) OPTIONAL USE BY STATES OF CDC CONTRACT PRICE.—Nothing in paragraph (1) shall be construed as limiting the Federal financial participation available to States, under title XIX of the Social Security Act, for the cost of a pediatric vaccine to the contract price described in such paragraph for the vaccine.

SEC. 5184. AVAILABILITY OF MEDICAID PAYMENTS FOR CHILDHOOD VACCINE REPLACEMENT PROGRAMS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; and", and

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

"(D) in the case of payment for a childhood vaccine administered to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a voluntary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer's bid price to the Centers for Disease Control and Prevention for the vaccine so administered plus a reasonable premium to cover shipping and the handling of returns;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5185. HEALTHY START FOR INFANTS.

(a) IN GENERAL.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting after section 330 the following section:

"HEALTHY START FOR INFANTS

"SEC. 330A. (a) GRANTS FOR COMPREHENSIVE SERVICES.—

"(1) IN GENERAL.—The Secretary may make grants for the operation of not more than 21 demonstration projects to provide the services described in subsection (b) for the purpose of reducing, in the geographic areas in which the projects are carried out—

"(A) the incidence of infant mortality and morbidity;

"(B) the incidence of fetal deaths;

"(C) the incidence of maternal mortality;

"(D) the incidence of fetal alcohol syndrome; and

"(E) the incidence of low-birthweight births.

"(2) ACHIEVEMENT OF YEAR 2000 HEALTH STATUS OBJECTIVES.—With respect to the objectives established by the Secretary for the health status of the population of the United States for the year 2000, the Secretary shall, in providing for a demonstration project under paragraph (1) in a geographic area, seek to meet the objectives that are applicable to the purpose described in such paragraph and the populations served by the project.

"(b) AUTHORIZED SERVICES.—

"(1) IN GENERAL.—Subject to subsection (h), the services referred to in this subsection are comprehensive services (including preventive and primary health services for pregnant women and infants and childhood immunizations in accordance with the schedule recommended by the Secretary under section 2160) for carrying out the purpose described in subsection (a), including services other than health services.

"(2) CERTAIN PROVIDERS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in making any arrangements under which other entities provide authorized services in the demonstration project involved, the applicant will include among the entities with which the arrangements are made grantees under any of sections 329, 330, 340, and 340A, if such grantees are providing services in the service area of such project and the grantees are willing to make such arrangements with the applicant.

"(c) ELIGIBLE GEOGRAPHIC AREAS.—The Secretary may make a grant under subsection (a) only if—

"(1) the applicant for the grant specifies the geographic area in which the demonstration project under such subsection is to be carried out and agrees that the project will not be carried out in other areas; and

"(2) the rate of infant mortality in the geographic area equals or exceeds 150 percent of the national average in the United States of such rates.

"(d) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) PUBLIC OR NONPROFIT PRIVATE ENTITIES.—The Secretary may make a grant under subsection (a) only if the applicant for the grant is a State or local department of health, or other public or nonprofit private entity, or a consortium of public or nonprofit private entities.

"(2) APPROVAL OF POLITICAL SUBDIVISIONS.—With respect to a proposed demonstration project under subsection (a), the Secretary may make a grant under such subsection only if—

"(A) the chief executive officer of each political subdivision in the service area of such project approves the applicant for the grant as being qualified to carry out the project; and

"(B) the leadership of any Indian tribe or tribal organization with jurisdiction over any portion of such area so approves the applicant.

"(3) STATUS AS MEDICAID PROVIDER.—

"(A) In the case of any service described in subsection (b) that is available pursuant to the State plan approved under title XIX of the Social Security Act for a State in which a demonstration project under subsection (a) is carried out, the Secretary may make a grant under such subsection for the project only if, subject to subparagraph (B)—

"(i) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant will enter into an agreement with a public or private entity under which the entity will provide the service, and the entity has entered into such a participation agreement under the State plan and is qualified to receive such payments.

"(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(ii) A determination by the Secretary of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(e) STATE APPROVAL OF PROJECT.—With respect to a proposed demonstration project under subsection (a), the Secretary may make a grant under such subsection to the applicant involved only if—

"(1) the chief executive officer of the State in which the project is to be carried out approves the proposal of the applicant for carrying out the project; and

"(2) the leadership of any Indian tribe or tribal organization with jurisdiction over any portion of the service area of the project so approves the proposal.

"(f) ELIGIBILITY FOR SERVICES PROVIDED WITH GRANT FUNDS.—

"(1) IN GENERAL.—With respect to any authorized service under subsection (b), if the service is a service that States are required or authorized to provide under title XIX of the Social Security Act, the Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended to provide the service to any individual to whom States are required or authorized under such title to provide the service. The Secretary may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(A) under a health insurance policy or plan (including a group health plan or a prepaid health plan),

"(B) under any Federal or State health benefits program, including any program under title V, XVIII, or XIX of the Social Security Act, or

"(C) under subpart 2 of part B of title XIX of this Act.

"(2) RULES OF CONSTRUCTION.—For purposes of paragraph (1):

"(A) Individuals to whom States are authorized to provide services under title XIX of the Social Security Act include, pursuant to section 1902(l) of such title, pregnant women, infants, and children with an income level not less than 133 percent, and not more than 185 percent, of the official poverty line.

"(B) Authorized services under subsection (b) that are authorized to be provided under title XIX of such Act include, pursuant to section 1920 of such title, ambulatory prenatal services during a period of presumptive eligibility.

"(C) Authorized services under subsection (b) that are required to be provided under title XIX of such Act include, pursuant to section 1905(a)(4)(B) of such title, early and periodic screening, diagnostic, and treatment services for children under the age of 21.

"(D) Authorized services under subsection (b) that are authorized to be provided under title XIX of such Act include, pursuant to section 1905(a)(19) of such title, case-management services.

"(g) MAINTENANCE OF EFFORT.—

"(1) GRANTEE.—With respect to authorized services under subsection (b), the Secretary may make a grant under subsection (a) only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such services at a level that is not less than the level of such expenditures maintained by the applicant for fiscal year 1991.

"(2) RELEVANT POLITICAL SUBDIVISIONS.—With respect to authorized services under subsection (b), the Secretary may make a grant under subsection (a) only if each political subdivision in the service area of the demonstration project involved agrees to maintain expenditures of non-Federal amounts for such services at a level that is not less than the level of such expenditures maintained by the political subdivision for fiscal year 1991.

"(h) RESTRICTIONS ON EXPENDITURE OF GRANT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended—

"(A) to provide inpatient services, except with respect to residential treatment for substance abuse provided in settings other than hospitals;

"(B) to make cash payments to intended recipients of health services or mental health services; or

"(C) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment (other than mobile medical units for providing ambulatory prenatal services).

"(2) ADMINISTRATIVE EXPENSES; DATA COLLECTION.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that not more than an aggregate 10 percent of the grant will be expended for administering the grant and the collection and analysis of data.

"(3) WAIVER.—If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(C).

"(i) DETERMINATION OF CAUSE OF INFANT DEATHS.—The Secretary may make a grant under subsection (a) only if the applicant involved—

"(1) agrees to provide for a determination of the cause of each infant death in the service area of the demonstration project involved; and

"(2) the applicant has made such arrangements with public entities as may be necessary to carry out paragraph (1).

"(j) ANNUAL REPORTS TO SECRETARY.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, for each fiscal year for which the applicant operates a demonstration project under such subsection the applicant will, not later than April 1 of the subsequent fiscal year, submit to the Secretary a report providing the following information with respect to the project:

"(1) The number of individuals that received authorized services, and the demographic characteristics of the population of such individuals.

"(2) The types of authorized services provided, including the types of ambulatory prenatal services provided and the trimester of the pregnancy in which the services were provided.

"(3) The sources of payment for the authorized services provided.

"(4) The extent to which children under age 2 receiving authorized services have received the appropriate number and variety of immunizations against vaccine-preventable diseases.

"(5) An analysis of the causes of death determined under subsection (i).

"(6) The extent of progress being made toward meeting the health status objectives specified in subsection (a)(2).

"(7) The extent to which, in the service area involved, progress is being made toward meeting the participation goals established for the State by the Secretary under section 1905(r) of the Social Security Act (relating to early periodic screening, diagnostic, and treatment services for children under the age of 21).

"(k) COMMUNITY PARTICIPATION.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in preparing the proposal of the applicant for the demonstration project involved, and in the operation of the project, the applicant will consult with the residents of the service area for the project and with public and nonprofit private entities that provide authorized services to such residents.

"(l) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

"(m) REPORT TO CONGRESS.—Not later than February 1, 1998, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report—

"(1) summarizing the reports received by the Secretary under subsection (j);

"(2) describing the extent to which demonstration projects under subsection (a) have been cost effective; and

"(3) describing the extent to which the Secretary has, in the service areas of such projects, been successful in meeting the health status objectives specified in subsection (a)(2).

"(n) LIMITATION ON CERTAIN EXPENSES OF SECRETARY.—Of the amounts appropriated under subsection (o) for a fiscal year, the Secretary may not obligate more than an aggregate 5 percent for the administrative costs of the Secretary in carrying out this section, for the provision of technical assistance regarding demonstration projects under subsection (a), and for evaluations of such projects.

"(o) DEFINITIONS.—For purposes of this section:

"(1) The term 'authorized services' means the services specified in subsection (b).

"(2) The terms 'Indian tribe' and 'tribal organization' have the meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(3) The term 'service area', with respect to a demonstration project under subsection (a), means the geographic area specified in subsection (c).

"(p) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated for each of the fiscal years 1994 through 1997 such sums as may be necessary.

"(q) SUNSET.—Effective October 1, 1997, this section is repealed.".

(b) REPORT FOR FISCAL YEAR 1993.—With respect to grants under section 330A of the Public Health Service Act, as added by subsection (a) of this section, the Secretary of Health and Human Services may make a grant under such section for fiscal year 1994 only if the applicant for the grant agrees to submit to the Secretary, not later than April 1 of such year, a report on any federally-supported project of the applicant that is substantially similar to the demonstration projects authorized in such section 330A, which report provides, to the extent practicable, the information described in subsection (j) of such section.

(c) SAVINGS PROVISION.—With respect to grants under section 330A of the Public Health Service Act, as added by subsection (a) of this section and in effect for the fiscal years 1994 through 1997, such grants remain available for obligation and expenditure in accordance with the terms upon which the grants were made, notwithstanding the repeal of such section 330A pursuant to subsection (q) of such section.

(d) USE OF GENERAL AUTHORITY UNDER PUBLIC HEALTH SERVICE ACT.—With respect to the program established in section 330A of the Public Health Service Act, as added by subsection (a) of this section, section 301 of the Public Health Service Act may not be construed as providing to the Secretary of Health and Human Services any authority to carry out, during any fiscal year in which such program is in operation, any demonstration project to provide any of the services specified in subsection (b) of such section 330A.

SEC. 5186. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

Section 501(a) (42 U.S.C. 701(a)) is amended by striking "$686,000,000 for fiscal year 1990" and inserting "$705,000,000 for fiscal year 1994".

SEC. 5187. MISCELLANEOUS TECHNICAL CORRECTIONS TO PUBLIC HEALTH SERVICE ACT PROVISIONS.

(a) COMPENSATION FOR MEMBERS OF NATIONAL ADVISORY COUNCIL ON NATIONAL HEALTH SERVICE CORPS.—

(1) IN GENERAL.—Section 337(b)(2) of the Public Health Service Act (42 U.S.C. 254j(b)(2)) is amended—

(A) by inserting after "so serving" the following: "compensation at a rate fixed by the Secretary (but not to exceed", and

(B) by striking "Schedule;" and inserting "Schedule);".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) LIABILITY PROTECTIONS FOR INDIVIDUALS PROVIDING SERVICES AT CERTAIN CLINICS.—

(1) CLARIFICATION OF VOLUNTARY PARTICIPATION BY CERTAIN ENTITIES.—(A) Section 224(g) of the Public Health Service Act (42 U.S.C. 133(g)(1)), as added by section 2(a) of the Federally Supported Health Centers Assistance Act of 1992, is amended—

(i) in paragraph (4), by striking "An entity" and inserting "Except as provided in paragraph (6), an entity", and

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

"(6) An entity may elect not to be treated as being described in paragraph (4) if the entity establishes that on a continuous basis since October 24, 1992, the entity has been a participant in, and partial owner of, a nonprofit risk retention group which offers malpractice and other liability coverage to the entity.".

(B) Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance

Act of 1992, is amended by striking "entities receiving funds" and all that follows through "subsection (g)" and inserting the following: "entities described in subsection (g)(4) and receiving funds under each of the grant programs described in such subsection".

(2) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking "officer, employee, or contractor" and inserting the following: "officer or employee of such an entity, and any contractor".

(3) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is amended—

(A) in the first sentence of paragraph (1), by inserting after "Service" the following: "with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals"; and

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

"(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

"(A) that the provision of the services to such individuals is necessary to assure the treatment of patients of such an entity; or

"(B) that such services are otherwise required to be provided to such individuals under an employment contract (or other similar arrangement) between the individual and the entity.".

(4) DETERMINING COMPLIANCE OF ENTITY WITH REQUIREMENTS FOR COVERAGE.—Section 224(h) of such Act (42 U.S.C. 233(h)), as added by section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "the entity—" and inserting the following: "the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

(c) ELIMINATION OF DUPLICATE WAIVER AUTHORITY FOR PARTICIPANTS IN NATIONAL HEALTH SERVICE CORPS.—Section 338E(c) of the Public Health Service Act (42 U.S.C. 254o(c)) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(d) CLARIFICATION OF PROHIBITION AGAINST RESALE OF DRUGS UNDER DRUG REBATE AGREEMENTS.—Section 340B(a)(5)(B) of the Public Health Service Act (42 U.S.C. 256b(a)(5)(B)), as added by section 602(a) of the Veterans Health Care of 1992, is amended by striking "entity." and inserting "covered entity.".

Subtitle C—Communications Licensing Improvement

SEC. 5200. TABLE OF CONTENTS.

The table of contents is as follows:

Subtitle C—Communications Licensing Improvement

Sec. 5200. Table of contents.

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CHAPTER 1—COMPETITIVE BIDDING AUTHORITY

SEC. 5201. SHORT TITLE.

This chapter may be cited as the "Licensing Improvement Act of 1993".

SEC. 5202. FINDINGS.

The Congress finds that—

(1) current licensing procedures often delay delivery of services to the public and can result in the unjust enrichment of applicants on the basis of the value of the public airwaves;

(2) if licensees are engaged in reselling the use of the public airwaves to subscribers for a fee, the licensee should pay reasonable compensation to the public for those public resources;

(3) a carefully designed system to obtain competitive bids from competing qualified applicants can speed delivery of services, promote efficient and intensive use of the electromagnetic spectrum, prevent unjust enrichment, and produce revenues to compensate the public for the use of the public airwaves; and

(4) therefore, the Federal Communications Commission should have the authority to differentiate among multiple qualified applicants for a single license using a system of competitive bids.

SEC. 5203. AUTHORITY TO USE COMPETITIVE BIDDING.

Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(j) USE OF COMPETITIVE BIDDING.—

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are filed for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

"(2) USES TO WHICH BIDDING MAY APPLY.—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

"(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return—

"(i) for the licensee enabling those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

"(ii) for the licensee enabling those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

"(B) a system of competitive bidding will promote the objectives described in paragraph (3).

"(3) DESIGN OF SYSTEMS OF COMPETITIVE BIDDING.—For each license or permit, or class of licenses or permits, that the Commission grants through the use of a competitive bidding system, the Commission shall, by rule, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. In identifying licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall seek to promote the purposes specified in section 1 of this Act and the following objectives:

"(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

"(B) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women;

"(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource; and

"(D) efficient and intensive use of the electromagnetic spectrum.

"(4) CONTENTS OF REGULATIONS.—In prescribing rules pursuant to paragraph (3), the Commission shall—

"(A) consider alternative payment schedules and methods of calculation, including initial lump sums, installment or royalty payments, guaranteed annual minimum payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

"(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

"(C) consistent with the public interest, convenience, and necessity, the purposes of this Act, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services; and

"(D) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits.

"(5) BIDDER AND LICENSEE QUALIFICATION.—No person shall be permitted to participate in a system of competitive bidding pursuant

to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described in paragraph (3), the Commission shall, by rule, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection, or in the use of competitive bidding, shall—

"(A) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

"(B) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection; or

"(C) be construed to prohibit the Commission from issuing nationwide licenses or permits.

"(7) LIMITATION OF EFFECT ON ALLOCATION DECISIONS.—In making a decision pursuant to section 303(c) to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(A) and (4)(C) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

"(8) TREATMENT OF REVENUES.—All proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code. A license or permit issued by the Commission under this section shall not be treated as the property of the licensee for tax purposes by any State or local government entity.

"(9) TERMINATION; EVALUATION.—The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 1998. Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

"(A) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

"(B) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

"(C) evaluating the extent to which such methodologies have secured prompt delivery of service to rural areas; and

"(D) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection.".

SEC. 5204. CONFORMING AMENDMENTS.

Section 309 of the Communications Act of 1934 is further amended—

(1) by striking subsection (i)(1) and inserting the following:

"(i) RANDOM SELECTION.—

"(1) GENERAL AUTHORITY.—If—

"(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

"(B) the Commission has determined that the use is not described in subsection (j)(2)(A);

then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.";

(2) in paragraph (2)—

(A) by indenting paragraph (2), including subparagraphs (A) through (C), by an additional 2 em spaces; and

(B) by inserting "DETERMINATIONS OF QUALIFICATIONS.—" after "(2)";

(3) in paragraph (3)—

(A) by indenting subparagraphs (A) and (B), and so much of subparagraph (C) as precedes clause (i), by an additional 2 em spaces;

(B) by indenting clauses (i) and (ii) of subparagraph (C) by an additional 4 em spaces; and

(C) by inserting "PREFERENCES; DIVERSITY.—" after "(3)";

(4) in paragraph (4)—

(A) by indenting subparagraphs (A) and (B) of such paragraph by an additional 2 em spaces;

(B) by inserting "RULEMAKING SCHEDULE AND AUTHORITY.—" after "(4)"; and

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

"(C) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.".

SEC. 5205. REGULATORY PARITY.

(a) AMENDMENT.—Section 332 of the Communications Act of 1934 (47 U.S.C. 332) is amended—

(1) by striking "PRIVATE LAND" from the heading of the section; and

(2) by amending striking subsection (c) and inserting the following:

"(c) REGULATORY TREATMENT OF MOBILE SERVICES.—

"(1) COMMON CARRIER TREATMENT OF COMMERCIAL MOBILE SERVICES.—(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except for such provisions of title II as the Commission may, consistent with the public interest, specify as inapplicable by rule. In prescribing any such rule, the Commission may not specify section 201, 202, or 208, or any other provision that the Commission determines to be necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this Act.

"(2) NONCOMMON CARRIER TREATMENT OF PRIVATE LAND MOBILE SERVICES.—A person engaged in private land mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier (other than a person that was treated as provider of private land mobile services prior to the enactment of the Licensing Improvement Act of 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

"(3) STATE AUTHORITY TO REGULATE.—(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to impose any rate or entry regulation upon any commercial mobile service or any private land mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

"(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the public within such State, or (ii) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(4) REGULATORY TREATMENT OF COMMUNICATIONS SATELLITE CORPORATION.—Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite of 1962 of the corporation authorized by title III of such Act.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercial mobile service' means all mobile services (as defined in section 3(n)) that—

"(A) are provided for profit (i) to the public, (ii) on an indiscriminate basis, or (iii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public; and

"(B) are interconnected (or have requested interconnection pursuant to paragraph (1)(B)) with the public switched network (as such terms are defined by regulation by the Commission); and

"(2) the term 'private mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO DEFINITIONS.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting "(1)" after "and includes"; and

(ii) by inserting before the period at the end the following: ", (2) a mobile service which provides a regularly interacting group

of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment of the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding''; and

(B) by striking subsection (gg).

(2) CONFORMING AMENDMENTS TO SECTION 332.—Section 332 of such Act is further amended—

(A) in subsection (a), by inserting after ''(a)'' the following: ''MANAGEMENT OF PRIVATE LAND MOBILE FREQUENCIES.—'';

(B) in subsection (b)—

(i) by indenting the margin of paragraphs (2) through (4) by 2 em spaces;

(ii) by striking ''(b)(1)'' and inserting the following:

''(b) USE OF ADVISORY COMMITTEE.—

''(1) COORDINATION OF FREQUENCY ASSIGNMENT.—'';

(iii) by inserting ''EXEMPTION.—'' after ''(2)'';

(iv) by inserting ''NONEMPLOYEE STATUS.—'' after ''(3)''; and

(v) by inserting ''APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—'' after ''(4).

SEC. 5206. EFFECTIVE DATES; DEADLINES FOR COMMISSION ACTION.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this chapter are effective on the date of enactment of this Act.

(2) EFFECTIVE DATE OF MOBILE SERVICE AMENDMENTS.—The amendments made by section 5205 shall be effective 1 year after such date of enactment, except that any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of private land mobile service until 3 years after such date of enactment.

(b) DEADLINES FOR COMMISSION ACTION.—

(1) GENERAL RULEMAKING.—The Federal Communications Commission shall prescribe rules to implement section 309(j) of the Communications Act of 1934 (as added by this chapter) within 210 days after the date of enactment of this Act.

(2) PCS ORDERS AND LICENSING.—The Commission shall—

(A) within 180 days after such date of enactment, issue a final report and order (i) in the matter entitled ''Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies'' (ET Docket No. 92-9); and (ii) in the matter entitled ''Amendment of the Commission's Rules to Establish New Personal Communications Services'' (GEN Docket No. 90-314; ET Docket No. 92-100); and

(B) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.

(3) MOBILE SERVICE RULEMAKING REQUIRED.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall—

(A) issue such modifications or terminations of its regulations concerning private land mobile services as are necessary to implement the amendments made by section 5205;

(B) make such other modifications of such regulations as may be necessary to equalize the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar; and

(C) include in such modifications and terminations such provisions as are necessary to provide for an orderly transition to the regulatory treatment required by such amendments.

(c) SPECIAL RULE.—The Federal Communications Commission shall not issue any license or permit pursuant to section 309(i) of the Communications Act of 1934 after the date of enactment of this Act unless the Commission has made the determination required by paragraph (1)(B) of such section (as added by this chapter).

CHAPTER 2—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

SEC. 5221. SHORT TITLE.

This chapter may be cited as the ''Emerging Telecommunications Technologies Act of 1993''.

SEC. 5222. AMENDMENT TO THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ORGANIZATION ACT.

The National Telecommunications and Information Administration Organization Act is amended—

(1) by striking the heading of part B and inserting the following:

''PART D—SPECIAL AND TEMPORARY PROVISIONS'';

(2) by redesignating sections 131 through 135 as sections 151 through 155, respectively; and

(3) by inserting after part A the following new part:

''PART B—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

''SEC. 111. FINDINGS.

''The Congress finds that—

''(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

''(2) many of such frequencies are underutilized by Federal Government licensees;

''(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

''(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

''(5) scarcity of assignable frequencies for licensing by the Commission can and will—

''(A) impede the development and commercialization of new telecommunications products and services;

''(B) limit the capacity and efficiency of the United States telecommunications systems;

''(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

''(D) adversely affect the productive capacity and international competitiveness of the United States economy;

''(6) a reassignment of these frequencies can produce significant economic returns; and

''(7) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

''SEC. 112. NATIONAL SPECTRUM PLANNING.

''(a) PLANNING ACTIVITIES.—The Assistant Secretary and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues—

''(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

''(2) the spectrum allocation actions necessary to accommodate those uses; and

''(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

''(b) REPORTS.—The Assistant Secretary and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Secretary, and the Commission on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities.

''(c) REPORTING REQUIREMENTS.—The first annual report submitted after the date of the report by the advisory committee under section 113(d)(4) shall—

''(1) include an analysis of and response to that committee report; and

''(2) include an analysis of the effect on spectrum efficiency and the cost of equipment to Federal spectrum users of maintaining separate allocations for Federal Government and non-Federal Government licensees for the same or similar services.

''SEC. 113. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

''(a) IDENTIFICATION REQUIRED.—The Secretary shall, within 24 months after the date of the enactment of this part, prepare and submit to the President and the Congress a report identifying bands of frequencies that—

''(1) are allocated on a primary basis for Federal Government use and eligible for licensing pursuant to section 305(a) of the Act (47 U.S.C. 305(a));

''(2) are not required for the present or identifiable future needs of the Federal Government;

''(3) can feasibly be made available, as of the date of submission of the report or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under such section 305);

''(4) will not result in costs to the Federal Government, or losses of services or benefits to the public, that are excessive in relation to the benefits that may be obtained by non-Federal licensees; and

''(5) are most likely to have the greatest potential for productive uses and public benefits under the Act.

''(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

''(1) IN GENERAL.—Based on the report required by subsection (a), the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), bands of frequencies that span a total of not less than 200 megahertz, that are located below 6 gigahertz, and that meet the criteria specified in paragraphs (1) through (4) of subsection (a). The Secretary may not include, in such 200 megahertz, bands of frequencies that span more than 20 megahertz and that are located between 5 and 6 gigahertz. If the report identifies (as meeting such criteria) bands of frequencies spanning more than 200 megahertz, the report shall identify and recommend for reallocation those bands (span-

ning not less than 200 megahertz) that meet the criteria specified in paragraph (5) of such subsection.

"(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary's report recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

"(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimum required by paragraph (1) of this subsection;

"(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

"(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures which the Commission shall establish and implement to ensure against harmful interference.

"(c) CRITERIA FOR IDENTIFICATION.—

"(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

"(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

"(B) seek to promote—

"(i) the maximum practicable reliance on commercially available substitutes;

"(ii) the sharing of frequencies (as permitted under subsection (b)(2));

"(iii) the development and use of new communications technologies; and

"(iv) the use of nonradiating communications systems where practicable; and

"(C) seek to avoid—

"(i) serious degradation of Federal Government services and operations; and

"(ii) excessive costs to the Federal Government and users of Federal Government services.

"(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

"(A) assume such frequencies will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) over the course of not less than 15 years;

"(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

"(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for licensing by the Commission for non-Federal use;

"(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

"(E) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

"(3) ANALYSIS OF BENEFITS.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(4), the Secretary shall consider—

"(A) the extent to which equipment is or will be available that is capable of utilizing the band;

"(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use; and

"(C) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

"(4) POWER AGENCY FREQUENCIES.—

"(A) ELIGIBLE FOR MIXED USE ONLY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas and shall not be recommended for the purposes of withdrawing that assignment. In any case where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall, consistent with the procedures established under subsection (b)(2)(C), not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

"(B) DEFINITION.—As used in this paragraph, the term 'Federal power agency' means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

"(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

"(1) SUBMISSION OF PRELIMINARY IDENTIFICATION TO CONGRESS.—Within 12 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reallocable bands of frequencies which meet the criteria established by this section.

"(2) CONVENING OF ADVISORY COMMITTEE.—Not later than the date the Secretary submits the report required by paragraph (1), the Secretary shall convene an advisory committee to—

"(A) review the bands of frequencies identified in such report;

"(B) advise the Secretary with respect to (i) the bands of frequencies which should be included in the final report required by subsection (a), and (ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

"(C) receive public comment on the Secretary's report and on the final report; and

"(D) prepare and submit the report required by paragraph (4).

The advisory committee shall meet at least monthly until each of the actions required by section 114(a) have taken place.

"(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The advisory committee shall include—

"(A) the Chairman of the Commission and the Assistant Secretary, and one other representative of the Federal Government as designated by the Secretary; and

"(B) representatives of—

"(i) United States manufacturers of spectrum-dependent telecommunications equipment;

"(ii) commercial carriers;

"(iii) other users of the electromagnetic spectrum, including radio and television broadcast licensees, State and local public safety agencies, and the aviation industry; and

"(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

"(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The advisory committee shall, not later than 36 months after the date of the enactment of this part, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report containing such recommendations as the advisory committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between Federal and non-Federal use, and any dissenting views thereon.

"(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—

"(1) TIMETABLE REQUIRED.—The Secretary shall, as part of the report required by subsection (a), include a timetable that recommends immediate and delayed effective dates by which the President shall withdraw or limit assignments on the frequencies specified in the report.

"(2) EXPEDITED REALLOCATION OF INITIAL 30 MHZ PERMITTED.—The Secretary may prepare and submit to the President a report which specifically identifies an initial 30 megahertz of spectrum that meets the criteria described in subsection (a) and that can be made available for reallocation immediately upon issuance of the report required by this section.

"(3) DELAYED EFFECTIVE DATE.—The recommended delayed effective dates shall—

"(A) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 115(1);

"(B) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

"(C) be based on the need to coordinate frequency use with other nations; and

"(D) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

"SEC. 114. WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

"(a) IN GENERAL.—The President shall—

"(1) within 6 months after receipt of the Secretary's report under section 113(a), withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

"(2) within such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 113(b)(2);

"(3) by the delayed effective date recommended by the Secretary under section 113(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

"(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

"(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

"(b) EXCEPTIONS.—

"(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

"(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

"(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

"(A) the reassignment would seriously jeopardize the national defense interests of the United States;

"(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

"(C) the reassignment would seriously jeopardize public health or safety; or

"(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

"(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section 113(a) unless the substituted frequency also meets each of the criteria specified by section 113(a).

"(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 113(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 115, the President may—

"(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

"(B) substitute alternative frequencies pursuant to the provisions of this subsection.

"(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

"SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

"Not later than 1 year after the President notifies the Commission pursuant to section 114(a)(5), the Commission shall prepare, in consultation with the Assistant Secretary when necessary, and submit to the President and the Congress, a plan for the distribution under the Act of the frequency bands reallocated pursuant to the requirements of this part. Such plan shall—

"(1) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 113(e), shall propose—

"(A) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (B), over the course of a period of not less than 10 years beginning on the date of submission of such plan; and

"(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

"(2) contain appropriate provisions to ensure—

"(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157); and

"(B) the availability of frequencies to stimulate the development of such technologies;

"(3) address (A) the feasibility of reallocating spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations; and

"(4) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

"SEC. 116. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

"(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 114, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

"(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

"(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part.

"(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part, except that the notification required by section 114(b)(1)(A) shall include—

"(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

"(B) an estimate of the cost of displacing spectrum users licensed by the Commission.

"(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency band, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

"(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under sections 305 and 706 of the Act (47 U.S.C. 305, 606).

"SEC. 117. DEFINITIONS.

"As used in this part:

"(1) The term 'allocation' means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

"(2) The term 'assignment' means an authorization given to a station licensee to use specific frequencies or channels.

"(3) The term 'commercial carrier' means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

"(4) The term 'the Act' means the Communications Act of 1934 (47 U.S.C. 151 et seq.).".

CHAPTER 3—COMMUNICATIONS TECHNICAL AMENDMENTS

SEC. 5241. CLERICAL CORRECTIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 4(f)(3), by striking "overtime exceeds beyond" and inserting "overtime extends beyond";

(2) in section 5, by redesignating subsection (f) as subsection (e);

(3) in section 220(b), by striking "clasess" and inserting "classes";

(4) in section 223(b)(3), by striking "defendant restrict access" and inserting "defendant restricted access";

(5) in section 226(d), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(6) in section 227(e)(2), by striking "national datebase" and inserting "national database";

(7) in section 228(c)(6)(D), by striking "conservation" and inserting "conversation";

(8) in section 308(c), by striking "May 24, 1921" and inserting "May 27, 1921";

(9) in section 331, by amending the heading of such section to read as follows:

"VERY HIGH FREQUENCY STATIONS AND AM RADIO STATIONS";

(10) in section 358, by striking "(a)";

(11) in part III of title III—

(A) by inserting before section 381 the following heading:

"VESSELS TRANSPORTING MORE THAN SIX PASSENGERS FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO TELEPHONE";

(B) by inserting before section 382 the following heading:

"VESSELS EXCEPTED FROM RADIO TELEPHONE REQUIREMENT";

(C) by inserting before section 383 the following heading:

"EXEMPTIONS BY COMMISSION";

(D) by inserting before section 384 the following heading:

"AUTHORITY OF COMMISSION; OPERATIONS, INSTALLATIONS, AND ADDITIONAL EQUIPMENT";

(E) by inserting before section 385 the following heading:

"INSPECTIONS"; and

(F) by inserting before section 386 the following heading:

"FORFEITURES";

(12) in section 410(c), by striking ", as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act,";

(13) in section 705(e)(3)(A), by striking "paragraph (4) of subsection (d)" and inserting "paragraph (4) of this subsection";

(14) in section 705, by redesignating subsections (f) and (g) (as added by Public Law 100–667) as subsections (g) and (h); and

(15) in section 705(h) (as so redesignated), by striking "subsection (f)" and inserting "subsection (g)".

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 303(a)—

(A) by striking "section 27(d)" and inserting "section 327(d)";

(B) by striking "sec. 29–911(d)" and inserting "sec. 29–327(d)";

(C) by striking "section 36" and inserting "section 336"; and

(D) by striking "sec. 29–916d" and inserting "sec. 29–336(d)";

(2) in section 304(d), by striking "paragraphs (1), (2), (3), (4), and (5) of section 310(a)" and inserting "subsection (a) and paragraphs (1) through (4) of subsection (b) of section 310"; and

(3) in section 304(e)—

(A) by striking "section 45(b)" and inserting "section 345(b)"; and

(B) by striking "sec. 29–920(b)" and inserting "sec. 29–345(b)"; and

(4) in sections 502(b) and 503(a)(1), by striking "Communications Satellite Corporation" and inserting "communications satellite corporation established pursuant to title III of this Act".

(c) CONFORMING AMENDMENT.—Section 1253 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

SEC. 5242. TRANSFER OF PROVISIONS OF LAW CONCERNING PUBLIC TELECOMMUNICATIONS FACILITIES, CHILDREN'S EDUCATIONAL TELEVISION, AND TELECOMMUNICATIONS DEMONSTRATION PROGRAM.

(a) AMENDMENTS.—The Communications Act of 1934 (hereinafter in this section referred to as "the 1934 Act") and the National Telecommunications and Information Administration Organization Act (hereinafter in this section referred to as "the NTIAO Act") are amended as follows:

(1) The NTIAO Act is amended by inserting after part B (as added by chapter 2 of this subtitle) a new part C, the heading of which shall be as follows:

"PART C—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; CHILDREN'S EDUCATIONAL TELEVISION; TELECOMMUNICATIONS DEMONSTRATIONS";

(2) Sections 390, 391, 392, 393, 393A, 394, and 395 of the 1934 Act are transferred to such new part C of the NTIAO Act and are redesignated as sections 121, 122, 123, 124, 125, 131, and 135, respectively, of the NTIAO Act.

(3) Such new part C of the NTIAO Act is amended—

(A) by inserting before section 121 the following:

"Subpart 1—Assistance for Public Telecommunications Facilities" and;

(B) by inserting before section 131 the following:

"Subpart 2—National Endowment for Children's Television" and;

(C) by inserting before section 135 the following:

"Subpart 3—Telecommunications Demonstrations".

(4) Section 125 of the NTIAO Act (as added by paragraph (2) of this subsection) is amended by striking "section 390" and inserting "section 121".

(5) Each of such sections 121 through 135 is amended so that the section designation and section heading of each such shall be in the form and typeface of the section designation and section heading of this section.

(b) CONFORMING AMENDMENT TO COMMUNICATIONS ACT OF 1934.—Part IV of title III of the 1934 Act is amended by striking out subparts A, B, and C.

(c) REFERENCES IN OTHER LAWS AND DOCUMENTS.—Any reference to any section or other provision of subpart A, B, or C of part IV of title III of the 1934 Act in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this section shall be deemed to refer to the section or other provision of subpart 1, 2, or 3 of part C of the NTIAO Act to which such section or other provision is transferred by this section.

SEC. 5243. ELIMINATION OF EXPIRED AND OUTDATED PROVISIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 7(b), by striking "or twelve months after the date of the enactment of this section, if later" both places it appears;

(2) in section 212, by striking "After sixty days from the enactment of this Act it shall" and inserting "It shall";

(3) in section 213, by striking subsection (g) and redesignating subsection (h) as subsection (g);

(4) in section 214(a), by striking "section 221 or 222" and inserting "section 221";

(5) in section 220(b), by striking ", as soon as practicable,";

(6) in section 222—

(A) by striking paragraph (1) of subsection (a);

(B) by redesignating paragraphs (2) and (3) of such subsection as paragraphs (1) and (2), respectively;

(C) by striking paragraph (2) of subsection (b);

(D) by redesignating subsection (b)(1) as subsection (b); and

(E) by striking subsections (c), (d), and (e);

(7) in section 224(b)(2), by striking "Within 180 days from the date of enactment of this section the Commission" and inserting "The Commission";

(8) in 226(e)(1), by striking ", within 9 months after the date of enactment of this section,";

(9) in section 309(i)(4)(A), by striking "The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall," and inserting "The Commission shall,";

(10) by striking section 328;

(11) in section 331(b), by striking the last sentence;

(12) in section 413, by striking ", within sixty days after the taking effect of this Act,";

(13) in section 624(d)(2)—

(A) by striking out "(A)";

(B) by inserting "of" after "restrict the viewing"; and

(C) by striking subparagraph (B);

(14) by striking sections 702 and 703;

(15) in section 704—

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

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

(16) in section 705(g) (as redesignated by section 5211(15)), by striking "Within 6 months after the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission" and inserting "The Commission";

(16) in section 710(f)—

(A) by striking the first and second sentences; and

(B) in the third sentence, by striking "Thereafter, the Commission" and inserting "The Commission";

(17) in section 712(a), by striking ", within 120 days after the effective date of the Satellite Home Viewer Act of 1988,"; and

(18) by striking section 713.

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 201(a)(1), by striking "as expeditiously as possible,";

(2) by striking sections 301 and 302 and inserting the following:

"SEC. 301. CREATION OF CORPORATION.

"There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.

"SEC. 302. APPLICABLE LAWS.

"The corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.";

(3) in section 304(a), by striking "at a price not in excess of $100 for each share and";

(4) in section 404—

(A) by striking subsections (a) and (c); and

(B) by striking "(b)" at the beginning of subsection (b);

(5) in section 503—

(A) by striking paragraph (2) of subsection (a); and

(B) by redesignating paragraph (3) of subsection (a) as paragraph (2) of such subsection;

(C) by striking subsection (b);

(D) in subsection (g)—

(i) by striking "subsection (c)(3)" and inserting "subsection (b)(3)"; and

(ii) by striking the last sentence; and

(E) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively;

(5) by striking sections 505, 506, and 507; and

(6) by redesignating section 508 as section 505.

SEC. 5244. STYLISTIC CONSISTENCY.

The Communications Act of 1934 and the Communications Satellite Act of 1962 are amended so that the section designation and section heading of each section of such Acts shall be in the form and typeface of the section designation and heading of this section.

Subtitle D—Energy Programs

SEC. 5301. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1995" and inserting "September 30, 1998".

TITLE VI—COMMITTEE ON FOREIGN AFFAIRS

In order to implement its reconciliation instructions, the Committee on Foreign Affairs recommends changes in law that are also recommended by the Committee on Post Office and Civil Service. These changes in law, which are contained in title X of this Act, would reduce direct spending under the Foreign Service Retirement and Disability Fund and the Foreign Service Pension System by requiring a 3-month delay in cost-of-living adjustments in each of the fiscal years 1994, 1995, and 1996.

TITLE VII—COMMITTEE ON THE JUDICIARY

SEC. 7001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1998";

(2) in subsection (b)(2) by striking "1995" and inserting "1998"; and

(3) in subsection (c)—

(A) by striking "through 1995" and inserting "through 1998"; and

(B) by adding at the end the following:

"(6) $111,000,000 in fiscal year 1996.

"(7) $115,000,000 in fiscal year 1997.
"(8) $119,000,000 in fiscal year 1998.".

TITLE VIII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 8001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by—

(1) striking "and 1995," each place it appears and inserting "1995, 1996, 1997, 1998,";

(2) striking "place," and inserting "place;"; and

(3) striking "port, not, however, to include vessels in distress or not engaged in trade" and inserting "port. However, neither duty shall be imposed on vessels in distress or not engaged in trade".

(b) CONFORMING AMENDMENT.—The Act of March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "and 1995," and inserting "1995, 1996, 1997, and 1998,".

(c) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 10402(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-398) is amended by striking "in the second paragraph".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after November 5, 1990.

SEC. 8002. SENSE OF THE CONGRESS ON THE INLAND WATERWAYS FUEL TAX.

(a) FINDINGS.—The Congress finds the following:

(1) The Administration has proposed to increase the tax on inland barge fuels from $0.19 to $1.19 per gallon by 1997, which represents an increase of 525 percent.

(2) The General Accounting Office has recently identified 117 forms of Federal fees, taxes, and assessments, not including customs duties, which raise some $2,000,000,000 in Federal revenues each year.

(3) Barge transportation is one of the most competitive, efficient, safe, and environmentally friendly modes of transportation.

(4) Barges transport 15 percent of our Nation's commerce and provide jobs to some 180,000 Americans.

(5) The Administration's proposed increase would add $420,000,000 in new taxes for operators on inland waterways, which is more than their pretax profits.

(6) This increase would cause barge rates to skyrocket, increasing costs to consumers and devastating industries dependent upon the commercial use of barges such as coal, agriculture, and petrochemicals, and would add to our unfavorable balance of trade payments by hurting the competitiveness of United States exports.

(7) Because the price of certain agricultural commodities, such as grain, are set in the world marketplace, increased inland barge fuel taxes could not be passed on to consumers and would largely be borne by our Nation's farmers.

(8) The Senate on March 18, 1993, voted 88 to 12 to reject any further increase in inland barge fuel taxes.

(9) This huge tax increase would cause many barge companies to go out of business, would result in thousands of lost American jobs, and would further burden the already beleaguered United States maritime industry.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the inland waterways fuel tax should not be further increased beyond those increases already mandated by law.

TITLE IX—COMMITTEE ON NATURAL RESOURCES

SEC. 9001. ANNUAL DIRECT GRANT ASSISTANCE.

(a) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 entitled "a Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes" (90 Stat. 263 and following; 48 U.S.C. 1681 note) are repealed, effective on October 1, 1993.

(b) DEFINITIONS.—As used in this section:

(1) COMMITTEES.—The term "committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) RECOMMENDATIONS.—The term "Recommendations" means the document executed December 17, 1992, between the special representative of the President of the United States and the special representatives of the Governor of the Commonwealth of the Northern Mariana Islands relating to future federal assistance for the Northern Mariana Islands.

(3) REPORTING DATE.—The term "reporting date" means the date on which the budget of the President for the fiscal year 1995 is required to be submitted to the Congress under section 1105 of title 31, United States Code.

(c) ASSISTANCE.—

(1) AMOUNTS.—Except as otherwise provided under this section, enactment of this section shall constitute a commitment and pledge of the full faith and credit of the United States for the payment of the following amounts:

(A) In fulfillment of the United States obligation under P.L. 94-241 and the authorization in P.L. 95-348, $3,000,000 for fiscal year 1994, which shall be available only for the American Memorial Park, located at Tanapag Harbor Reservation, Saipan, to be expended in accordance with section 5 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), for the primary purpose of constructing an appropriate monument honoring the dead in the World War II Mariana Islands campaign.

(B) $19,000,000 for fiscal year 1994, to be held in trust in a special account by the Secretary of the Interior for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands, and to be disbursed by the Secretary during fiscal year 1994 for essential capital improvement projects. Such disbursements shall be made by the Secretary for projects described in plans submitted to the Secretary by the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. No such disbursements shall be made pursuant to any such plan until after the expiration of a period of 60 days after such plan has been submitted to the committees. No such disbursements shall be made to the Commonwealth of the Northern Mariana Islands during fiscal year 1994 pursuant to any such plan until the committees have received the reports required under subsection (d)(3) and a Joint Resolution has been adopted expressing the sense of Congress that disbursements are appropriate. The Inspector General of the Department of the Interior shall (i) monitor the expenditure of such funds to determine whether such funds are expended in accordance with applicable law, and (ii) submit a report of the findings to the committees not later than January 1, 1995.

(C) Subject to paragraphs (2), (3), and (4) and subject to subsection (d), not more than $98,000,000 for the 6-year period beginning October 1, 1994, for the government of the Commonwealth of the Northern Mariana Islands, for capital improvement projects, at annual amounts that shall not exceed those specified for the Federal contribution within the general funding schedule contained in the Recommendations.

(2) MATCHING RATIO AND INTEREST EARNINGS.—Nothing in this section shall be construed to—

(A) modify the matching ratio requirement specified in the funding schedule contained in the Recommendations; or

(B) modify the terms of the Recommendations as to the availability of interest earnings on funds contributed under Public Law 99-396 upon meeting the terms of the grant pledge agreements entered into under Public Law 99-396.

(3) ROTA, TINIAN, AND SAIPAN.—No less than 1/6 th share of the funds made available under subsection (c)(1)(C) shall be expended in the islands of Rota and Tinian and no less than 1/4 th share shall be expended in Saipan.

(4) APPLICABILITY OF GRANT REGULATIONS.—The Federal assistance provided under this section shall be subject to the applicable Federal grant regulations set forth in the Common Rule (43 C.F.R. 12a, OMB Circular A-102, and OMB Circular A-128).

(d) CONDITION ON MULTI-YEAR ASSISTANCE.—

(1) JOINT RESOLUTION.—Amounts under subsection (c)(1)(C) for fiscal years 1995 through 2000 shall be as determined by the Congress by joint resolution. It is the intent of the Congress that the committees report such a joint resolution after considering the plan referred to in paragraph (2) and reports required by this subsection.

(2) CAPITAL IMPROVEMENT PROJECTS PLAN.—The plan referred to in paragraph (1) is a plan developed and submitted by the Governor of the Commonwealth of the Northern Mariana Islands to the Secretary of the Interior as approved by the legislature of the Commonwealth for new and reconstructed capital infrastructure projects, indicating the order of priority, together with cost estimates for each project and identification of sources of financing for each project. The Secretary of the Interior shall submit the plan, together with his recommendations, to the committees not later than the reporting date.

(3) REPORTS.—Each of the following reports shall be submitted to the committees not later than the reporting date as follows:

(A) REVENUE BURDEN.—The Comptroller General of the United States, after consultation with the government of the Northern Mariana Islands, shall submit a report describing the effective revenue burden (including all taxes and fees) imposed by the government of the Commonwealth of the Northern Mariana Islands. The report shall—

(i) address whether revenues raised are sufficient to meet the infrastructure needs of the Commonwealth; and

(ii) compare the revenue burden of the Commonwealth with that of Guam.

(B) COMPLIANCE WITH AUDIT RECOMMENDATIONS.—The Inspector General of the Department of the Interior shall submit a report on (i) compliance by the government of the Commonwealth of the Northern Mariana Islands with recommendations made by the Inspector General pursuant to audits of the government of the Commonwealth, and (ii)

on all unfulfilled commitments made by the government of the Commonwealth in response to those recommendations.

(C) ASSESSMENT OF MINIMUM WAGE.—The Secretary of Labor, after consultation with the government of the Commonwealth of the Northern Mariana Islands, shall submit a report which assesses whether—

(i) the minimum wage policies of the Commonwealth are sufficient for the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers in the Commonwealth;

(ii) the prevailing wages paid in the Commonwealth are effectively reduced by the immigration policy of the Commonwealth; and

(iii) the wage rate in the Commonwealth gives industries in the Commonwealth a competitive advantage over industries in the United States outside of the Commonwealth.

(D) IMMIGRATION POLICY AND BURDEN ON INFRASTRUCTURE.—(i) The Attorney General of the United States, after consultation with the government of the Commonwealth of the Northern Mariana Islands, shall submit a report which assesses—

(I) whether the immigration laws of the Commonwealth are appropriate in light of the social and economic situation in the Commonwealth;

(II) the extent to which the Commonwealth is relying on temporary alien workers to meet the Commonwealth's permanent labor needs;

(III) whether the Commonwealth has taken steps to reduce its dependence on temporary alien workers; and

(IV) the political and civil rights of the alien population as compared to the resident population.

(ii) The Comptroller General of the United States shall submit a report to the Congress which analyzes the socioeconomic impact of the immigration policy of the Commonwealth of the Northern Mariana Islands, including the financial burden imposed by the alien population on the infrastructure.

(E) ENVIRONMENTAL LAWS.—The Secretary of the Interior and the Administrator of the Environmental Protection Agency shall each submit a report to the Congress on the compliance by the Commonwealth of the Northern Mariana Islands with United States environmental laws, including (but not limited to) the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the Federal Water Pollution Control Act.

SEC. 9002. NET RECEIPTS SHARING.

Section 35 of the Mineral Leasing Act is amended as follows:

(1) Strike the last sentence.

(2) Insert "(a) IN GENERAL.—" after "SEC. 35."

(3) Insert "and, subject to subsection (b)," between "United States;" and "50 percentum".

(4) Add the following new subsection at the end thereof:

"(b) ADMINISTRATIVE COSTS.—(1) In calculating the amount to be paid to each State during any fiscal year under this section and under other provisions of law requiring payment to a State of any revenues derived from the leasing of any other onshore lands or interest in land owned by the United States for the production of the same types of minerals as are leasable under this Act or for the production of geothermal steam, prior to the division and distribution of such leasing receipts between the States and the United States, the Secretary shall deduct 50 percent of the portion of the enacted appropriations of the Department of the Interior and of other departments and agencies of the United States for the preceding fiscal year allocable to the administration and enforcement of this Act and such other provisions of law. Such deduction shall be in approximately equal amounts each month (subject to paragraph (3)).

"(2) The proportion of the deduction required under paragraph (1) which is allocable to each State shall be a percentage of the total deduction allocable to all States. The percentage shall be determined by dividing—

"(A) the monies disbursed to the State during the preceding fiscal year under the provisions of this section and the other provisions of law referred to in paragraph (1), by

"(B) the total money disbursed to all States during that fiscal year under such provisions.

"(3) If the amount otherwise deductible under this subsection in any month from the portion of revenues to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted from amounts payable to the State in subsequent months.

"(4) All amounts deducted under this subsection from monies otherwise payable to a State shall be credited to miscellaneous receipts in the Treasury.".

SEC. 9003. HARD ROCK MINING CLAIM MAINTENANCE AND LOCATION FEES.

(a) CLAIM MAINTENANCE AND LOCATION FEES.—

(1) CLAIM MAINTENANCE FEES.—The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States (whether located before or after enactment of this Act) shall pay to the Secretary of the Interior or his designee for each assessment year a flat claim maintenance fee of not less than $100 per claim. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a) and (c)).

(2) LOCATION FEE.—For each mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States after the date of enactment of this Act, the claimant shall pay the Secretary a location fee of $25.

(b) TIME OF PAYMENT.—The claim maintenance fee payable under subsection (a)(1) for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under subsection (a)(2) shall be payable not later than 90 days after the date of location.

(c) DEPOSIT IN TREASURY.—The Secretary shall deposit monies received under this Act as miscellaneous receipts in the Treasury.

(d) CO-OWNERSHIP.—The co-ownership provisions of section 2324 of the Mining Law of 1872 (30 U.S.C. 28) shall remain in effect with respect to mining claims subject to such provisions except that the annual claim maintenance fee, where applicable, shall be paid in lieu of applicable assessment requirements and expenditures.

(e) FORFEITURE.—Failure to make the annual payment of any claim maintenance or location fee required with respect to any unpatented mining claim, mill, or tunnel site required by subsection (a) shall conclusively constitute a forfeiture by the holder of the unpatented mining claim, mill or tunnel site, effective at noon on the date the payment is due.

(f) FLPMA FILING REQUIREMENTS.—Nothing in this Act shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)) or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by such section 314(b). Such requirements shall remain in effect with respect to claims, and mill or tunnel sites for which fees are required to be paid under this section.

(g) RULES AND REGULATIONS.—The Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the date of enactment of this Act.

(h) PURCHASING POWER ADJUSTMENT.—Every 5 years following the date of enactment of this Act, or more frequently if the Secretary determines a more frequent adjustment to be reasonable, the Secretary of the Interior shall adjust the fees specified in subsection (a) to reflect changes in the purchasing power of the dollar. The Secretary shall use the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890). The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made. A fee adjustment under this paragraph shall begin to apply the first assessment which begins after the adjustment is made.

(i) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

(j) EXCEPTION FOR HOLDERS OF FEWER THAN 50 CLAIMS.—

(1) ELIGIBILITY.—In accordance with paragraph (3), a claimant may be eligible for a waiver or reduction of the claim maintenance fees imposed under this section if the claimant certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 50 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work sufficient to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due; except that such performance of assessment work shall not be required by reason of section 5 of Public Law 94–429, commonly known as the Mining in the Parks Act, or such other laws that before the date of the enactment of this Act removed the applicability of the assessment work requirement of the general mining laws for any claim subject to such laws.

(2) HOLDER.—For purposes of paragraph (1), with respect to any claimant, the term "related parties" means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

(B) a person affiliated with the claimant, including—

(i) a person controlled by, controlling, or under common control with the claimant; and

(ii) a subsidiary or parent company or corporation of the claimant.

(3) WAIVED OR REDUCED MAINTENANCE FEES.—

(A) 10 OR FEWER CLAIMS.—The Secretary of the Interior may waive the claim maintenance fee imposed under this section in its entirety for 10 or fewer claims held by a claimant eligible under paragraph (1).

(B) 11 OR MORE CLAIMS.—

(i) IN GENERAL.—Subject to clause (ii), for a claimant eligible under paragraph (1), the Secretary may reduce the claim maintenance fee imposed under this section to $25 per claim for each claim in excess of 10.

(ii) LIMITATION.—The reduction provided for in this subparagraph shall be available for no more than 50 claims held by a claimant who is eligible under paragraph (1).

(4) PAYMENT IN LIEU OF ANNUAL LABOR REQUIREMENTS.—The third sentence of section 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after "On each claim located after the tenth day of May, eighteen hundred and seventy-two," the following: "for which a waiver of the maintenance fee, or a reduced maintenance fee, under section 9003 of the Omnibus Budget Reconciliation Act of 1993 has been granted under subsection (j) of that section,".

(5) FILING REQUIREMENTS.—The holder of any unpatented mining claim for which a waiver of the maintenance fee, or a reduced maintenance fee, has been granted pursuant to this subsection shall continue to be subject to the filing requirements contained in sections 314 (a) and (c) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(k) EFFECTIVE DATE.—This section shall take effect with respect to assessment years beginning after August 31, 1994.

SEC. 9004. FEDERAL IRRIGATION WATER SURCHARGE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the construction and operation of Federal reclamation projects have contributed to the depletion of streams, the alteration of riparian habitat, and the degradation of water quality;

(B) such impacts have had adverse impacts on fish and wildlife resources; and

(C) the restoration of fish and wildlife and related habitat affected by the construction or operation of Federal reclamation projects is a continuing responsibility of the beneficiaries of such projects.

(2) PURPOSES.—The purposes of this section are to—

(A) incorporate the restoration of fish and wildlife resources and related habitat affected by the construction or operation of Federal reclamation projects into the annual operation and maintenance requirements of such projects;

(B) establish a fair and equitable mechanism for securing timely payments from the beneficiaries of such projects for the implementation, operation, and maintenance of fish and wildlife restoration measures;

(C) accelerate the rate of restoration and recovery of depleted populations of indigenous fish and wildlife; and

(D) encourage more efficient use of water resources by the beneficiaries of Federal reclamation projects.

(b) OPERATIONAL CHARGES.—

(1) IN GENERAL.—Individuals or non-Federal entities that receive delivery of water (including by exchange) which is stored in or transported through Federal reclamation projects or project facilities or projects or project facilities constructed by the Secretary of the Army that meet the conditions specified in paragraph (1) or (2) of section 212(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 43 U.S.C. 390ll), except for facilities of the Central Valley Project, California (as that project is defined by title XXXIV of Public Law 102-575), shall, pursuant to such terms, conditions, and procedures as the Secretary of the Interior may prescribe, pay to the United States an operation and maintenance charge sufficient to yield at least $10,000,000 (January 1993 price levels) annually in the years 1994, 1995, and 1996 and at least $15,000,000 (January 1993 price levels) annually in 1997 and each year thereafter.

(2) PAYMENTS.—Payments required by paragraph (1) shall be made without reduction or deferral by the Secretary under any provision of reclamation law and without regard to whether an individual or entity has discharged its repayment obligation within the meaning of the first section of the Act of July 2, 1956 (70 Stat. 483; 43 U.S.C. 485h-1), section 213 of the Reclamation Reform Act of 1982 (Public Law 97-293, 43 U.S.C. 390mm), or any other provision of Federal Reclamation law. The payments shall be in addition to any other repayments owed or made to the United States and shall not be applied or credited to an individual's or entity's repayment of project construction costs, payment of other annual project operation and maintenance costs, payment of interest, or reduction of any contractual obligation the individual or entity may have with the United States.

(c) NATURAL RESOURCES RESTORATION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the "Natural Resources Restoration Fund" (hereafter in this section referred to as the "Fund"). All payments of the operation and maintenance charges authorized in subsection (b) shall be deposited in the Fund, and shall be available in the fiscal year following deposit and thereafter, to such extent or in such amounts as are provided in advance in appropriation Acts, for expenditures by the Secretary of the Interior for the benefit of fish and wildlife resources, including habitat, affected by construction or operation of the projects referred to in this section.

(d) INDIAN LAND OWNERS.—For the purposes of this section, Indian tribes or individual Indian beneficial owners of land held in trust by the United States or subject to a restriction against alienation by the United States shall be considered to be Federal entities.

(e) FEDERAL RECLAMATION LAW.—This section shall constitute an amendment of and a supplement to the Federal Reclamation laws (the Reclamation Act of 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto).

SEC. 9005. RECREATION USER FEES.

(a) LAND AND WATER CONSERVATION FUND ACT OF 1965.—

(1) IN GENERAL.—The first sentence of section 4(b) of the Land and Water Conservation Fund Act of 1965 (relating to recreation use fees) is amended by striking out "picnic tables, or boat ramps" and all that follows down through the period at the end thereof and inserting the following: "or picnic tables, and in no event shall there be any charge for the use of any campground not having a majority of the following: tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, fee collection by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). For purposes of this subsection, the term 'specialized outdoor recreation site' includes but shall not be limited to campgrounds, swimming sites, boat launch facilities, and managed parking lots.". The second sentence of such section 4(b) is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 210 of Public Law 90-483 (82 Stat. 746; 16 U.S.C. 460d-3) is repealed.

(b) COSTS OF COLLECTION.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (relating to special accounts for fees collected) is amended by inserting "(A)" after "(1)" and by adding the following at the end of paragraph (1):

"(B) Notwithstanding subparagraph (A), in any fiscal year, the Secretary of Agriculture and the Secretary of the Interior may withhold from the special account established under subparagraph (A) such portion of all receipts the fees collected in that fiscal year under this section as such Secretary determines to be equal to the additional fee collection costs for that fiscal year. The amounts so withheld shall be retained by the Secretary of Agriculture or the Secretary of the Interior and shall be available, without further appropriation, for expenditure by the Secretary concerned in the fiscal year in which collected to cover such additional fee collection costs. The Secretary concerned shall deposit in the special account established pursuant to subparagraph (A) any amounts so retained which remain unexpended and unobligated at the end of such fiscal year. For the purposes of this subparagraph, for any fiscal year, the term 'additional fee collection costs' means those costs for personnel and infrastructure directly associated with the collection of fees imposed under this section which exceed the costs for personnel and infrastructure directly associated with the collection of such fees during fiscal year 1993.".

(c) GOLDEN AGE PASSPORT.—The second sentence of section 4(a)(4) of the Land and Water Conservation Fund Act of 1965 (relating to Golden Age Passports) is amended to read as follows: "Such permit shall be nontransferable, shall be issued for a charge of $10, and shall entitle the permittee and the permittee's spouse accompanying the permittee to general admission into any area designated pursuant to this section.".

(d) USER FEES FOR RIGHTS-OF-WAY.—In each fiscal year after the enactment of this Act, the Secretary of the Interior shall impose and collect an annual fee for the use and occupancy of any right-of-way through any national park system unit for which a permit has been issued by the Secretary pursuant to any general or specific statutory right-of-way authority (whether issued before or after the enactment of this Act) or for any other right-of-way allowed as of the date of the enactment of this Act. The amount of such annual fee shall be equal to the fair market rental value, as determined by the Secretary, of such use and occupancy for the fiscal year concerned. The fair market value shall be reviewed (and revised if necessary) not less frequently than every 3 years. The Secretary shall deposit all fees collected under this subsection in the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(e) COMMERCIAL TOUR USE FEES.—(1) In the case of each unit of the National Park System for which an admission fee is charged under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4),

the Secretary of the Interior shall establish, by October 1, 1993, a commercial tour use fee to be imposed on each vehicle or aircraft entering the unit (or the airspace of the unit) for the purpose of providing commercial tour services within (or within the air space of) the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(2) The Secretary shall establish the amount of fee to be imposed under this subsection per entry. The fee shall not be less than—

(A) $25 per vehicle or aircraft with a passenger capacity of 25 persons or less,

(B) $50 per vehicle or aircraft with a passenger capacity of 26 to 99 persons, and

(C) $100 per vehicle or aircraft with a passenger capacity of 100 to 299 persons.

The Secretary may periodically increase the fee imposed under this subsection as he deems necessary and justifiable.

(3) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

(A) Any vehicle or aircraft transporting organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

(B) Any vehicle or aircraft entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20–20g) entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes".

(f) FAIR MARKET VALUE FOR COMMUNICATION SITE FEES.—No permit or other authorization for the use of any area of the public lands of the United States for purposes of commercial telephone transmission facilities shall remain in force and effect after January 1, 1994 unless, before that date, and before January 1 of each year thereafter, the holder of such permit or other authorization pays to Secretary of the Department having administrative jurisdiction over such lands an amount equal to the fair market value, as determined by such Secretary, of the right to use and occupy such area for such purposes. For purposes of this subsection, the term "public lands of the United States" means lands owned by the United States and administered by the Secretary of the Interior (other than lands held for the benefit of Indians, Aleuts, and Eskimos) and lands within the National Forest System.

SEC. 9006. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1995" and inserting "September 30, 1998".

SEC. 9007. RECOVERING THE COST FOR GOVERNMENT SERVICES.

(a) REPORT.—Not later than January 1, 1994, the Secretary of the Interior and the Secretary of Energy shall each submit a report identifying fees, penalties, and other charges to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each report shall—

(1) identify all fees, penalties, and other charges imposed by the respective Secretary for the provision of services;

(2) include the procedures for adjusting such fees to recover the cost of providing those services; and

(3) identify those services for which no fee is currently charged and make recommendations for a fee appropriate to cover the cost of providing each service.

(b) ADJUSTMENT OF FEES.—Except as provided in subsection (d), for fiscal year 1995 and each fiscal year thereafter, the Secretary of the Interior and the Secretary of Energy shall adjust each fee, penalty, and other charge for the provision of services identified pursuant to subsection (a)(1). Each such fee, penalty, and charge shall be adjusted in accordance with the procedures identified pursuant to subsection (a)(2).

(c) IMPLEMENTATION OF FEES FOR SERVICES NOT COVERED.—Beginning with fiscal year 1995, the Secretary of the Interior and the Secretary of Energy shall charge fees for each of the services identified pursuant to subsection (a)(3) in an amount sufficient to recover the cost of providing the service. For each fiscal year thereafter, the fee shall be adjusted in the same manner as adjustments are made pursuant to subsection (b), using fiscal year 1995 as the base year.

(d) CERTAIN FEES, PENALTIES AND CHARGES NOT COVERED.—Subsection (b) shall not apply to any fee, penalty, or charge the amount of which is expressly specified in any statute or contract.

SEC. 9008. UNFUNDED LIABILITIES OF THE FEDERAL GOVERNMENT.

Section 1105 of title 31, United States Code, is amended by adding the following subsection at the end thereof:

"(g) The President shall transmit with materials related to each budget an estimate of unfunded future liabilities of the Federal Government that are not accounted for in the budget itself. Such estimate shall include (but not be limited to) liabilities for future remediation of environmental and natural resources damage, and cleaning up waste sites, on Federal lands. Sources of liabilities shall include (but not be limited to) active, inactive, or abandoned mines or oil or gas wells, irrigation waste water impacts, decommissioning of nuclear power plants, and uranium mining and processing activities (without regard to the location of such mining or processing activities) affecting the health of Native Americans and carried out pursuant to a program administered by the United States.".

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Subtitle A—Civil Service

SEC. 10001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—This section shall apply with respect to any cost-of-living increase scheduled to take effect, during fiscal year 1994, 1995, or 1996, under—

(1) section 8340(b) or 8462(b) of title 5, United States Code;

(2) section 826 or 858 of the Foreign Service Act of 1980; or

(3) section 291 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2131), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102-496; 106 Stat. 3196).

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340(b) or (c) or section 8462(b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 10002. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and 8420a of title 5, United States Code, are each amended—

(1) in subsection (a) by striking "an employee or Member may," and inserting "any employee or Member who has a life-threatening affliction or other critical medical condition may,"; and

(2) by striking subsection (f).

(b) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—Section 807(e)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—Section 294(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2143(a)), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102-496; 106 Stat. 3196), is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1994, and shall apply with respect to any annuity commencing on or after that date.

SEC. 10003. PAY LIMITATIONS.

(a) ELIMINATION OF THE 1994 ANNUAL PAY ADJUSTMENT.—

(1) STATUTORY PAY SYSTEMS.—Notwithstanding section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (5 U.S.C. 5303 note) or any other provision of law, the adjustment in rates of basic pay that is scheduled to take effect in 1994 under section 5303 of title 5, United States Code, shall not take effect.

(2) OTHER PAY SYSTEMS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any general pay adjustment, similar to the adjustment referred to in paragraph (1), which is scheduled to take effect in 1994 with respect to any civilian officers or employees in the executive branch (other than those affected by paragraph (1)) shall not take effect.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to—

(i) any pay adjustment required under the terms of a contract, as in effect before the date of the enactment of this Act; or

(ii) any alien or noncitizen of the United States who occupies a position outside the United States.

(C) REGULATIONS.—The Office of Personnel Management may prescribe any regulations it considers necessary for the administration of this paragraph.

(b) MODIFICATION IN FORMULA FOR COMPUTING ANNUAL PAY ADJUSTMENTS FOR 1995, 1996, AND 1997.—

(1) STATUTORY PAY SYSTEMS.—Section 5303(a) of title 5, United States Code, is amended—

(A) by striking "(a)" and inserting "(a)(1)"; and

(B) by adding at the end the following:

"(2) Notwithstanding section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 or any other provision of law, for purposes of any

adjustment scheduled to take effect under this section in 1995, 1996, or 1997, paragraph (1) shall be deemed to be amended by striking 'equal to' through 'less than' and inserting 'equal to one and one-half percentage points less than'.".

(2) OTHER PAY SYSTEMS.—Section 704(a)(1) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note) is amended by adding at the end the following:

"(C) SPECIAL RULE.—For purposes of any pay adjustment scheduled to take effect in 1995, 1996, or 1997, subparagraph (B) shall be deemed to be amended by striking 'one-half of 1 percent' and inserting 'one and one-half percent'.".

SEC. 10004. PROVISIONS RELATING TO LOCALITY-BASED COMPARABILITY PAYMENTS.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—

(1) CHANGE IN EFFECTIVE DATE OF PAYMENTS.—Section 5304(d)(2) of title 5, United States Code, is amended by striking "January 1" and inserting "July 1".

(2) LIMITATION RELATING TO AGGREGATE AMOUNT PAYABLE DURING CERTAIN PERIODS.—Section 5304 of title 5, United States Code, is amended—

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

(B) by inserting after subsection (h) the following:

"(i)(1) Notwithstanding any other provision of this section, comparability payments may not be established or adjusted under this section in a manner that would cause the resulting estimated total amount payable under this section during the period which—

"(A) begins on July 1, 1994, and ends on June 30, 1995, to exceed $1,800,000,000;

"(B) begins on July 1, 1995, and ends on June 30, 1996, to exceed $2,500,000,000;

"(C) begins on July 1, 1996, and ends on June 30, 1997, to exceed $3,300,000,000;

"(D) begins on July 1, 1997, and ends on June 30, 1998, to exceed $4,200,000,000; or

"(E) begins on July 1, 1998, and ends on September 30, 1998, to exceed $1,747,000,000.

"(2) If necessary in order to achieve compliance with any of the respective limitations under paragraph (1), the President may, in carrying out subsection (d)(2), specify levels of comparability payments less than the minimum which would otherwise be required under subsection (a)(3).

"(3) The pay agent shall develop and include in the appropriate reports under subsection (d)(1) the methodology for making any estimates under this subsection, and any such estimate shall be made in accordance with the methodology so included in the then most recent report.

"(4) Whenever any authority under this subsection is exercised, the President shall so indicate in his next report under subsection (d)(3), including specific information as to how such authority was exercised and the reasons why it was so exercised.".

(b) TEMPORARY CHANGE IN EFFECTIVE DATE OF ANNUAL PAY ADJUSTMENTS UNDER SECTION 5303 OF TITLE 5, UNITED STATES CODE.—Section 5303(a) of title 5, United States Code (as amended by section 10003(b)(1)), is further amended by adding after paragraph (2) of such section 5303(a) (as so amended) the following:

"(3) Effective for the period beginning on January 1, 1995, and ending on December 31, 2003, paragraph (1) shall be deemed to be amended by striking 'January 1' and inserting 'July 1'.".

(c) REPEAL OF THE PROVISION EXCLUDING SENIOR EXECUTIVES FROM THE LIMITATION GENERALLY APPLICABLE ON THE ACCUMULATION OF ANNUAL LEAVE.—

(1) IN GENERAL.—Section 6304(f) of title 5, United States Code, is repealed, effective as of January 1, 1994.

(2) SAVINGS PROVISION.—

(A) APPLICABILITY.—This paragraph shall apply with respect to an individual—

(i) who, as of December 31, 1993, has more than 30 days of annual leave to such individual's credit (or more than 45 days, if the individual would be subject to section 6304(b) of such title) which were accrued in any position described in section 6304(f) of title 5, United States Code (as in effect on the date of the enactment of this Act); and

(ii) only for so long as such individual remains continuously employed in any such position (disregarding any break in service of 3 days or less).

(B) STATEMENT OF THE RULE.—For purposes of administering section 6304 of title 5, United States Code, with respect to any individual to whom this paragraph applies—

(i) subsection (a) of such section shall be deemed amended by striking "30" and inserting the number corresponding to the number of days determined for such individual under subparagraph (A)(i); and

(ii) subsection (b) of such section shall be deemed amended by striking "45" and inserting the number corresponding to the number of days determined for such individual under subparagraph (A)(i).

(3) CONFORMING AMENDMENT.—Section 6304(a) of title 5, United States Code, is amended by striking "(d), (e), (f), and (g)" and inserting "(d) and (e)".

(d) NO CASH AWARDS BETWEEN FISCAL YEARS 1994 THROUGH 1998.—

(1) DEFINITION.—For the purpose of this subsection, the term "cash award" means any cash award, performance award, rank, or other form of recognition entitling the recipient to any monetary payment under subchapter I of chapter 45 of title 5, United States Code, or section 5384, 5406, or 5407 of such title.

(2) RESTRICTION.—Notwithstanding any other provision of law, no cash award may be awarded during the period beginning on October 1, 1993, and ending on September 30, 1998.

(e) REDUCTION OF FEDERAL WORKFORCE BY 150,000.—

(1) DEFINITION.—For the purpose of this subsection, the term "civilian employees in the executive branch" means all civilian employees within the executive branch of the Government (other than in the United States Postal Service or the Postal Rate Commission).

(2) LIMITATIONS.—The average total number of civilian employees in the executive branch may not exceed—

(A) 2,095,200 in fiscal year 1994;

(B) 2,044,100 in fiscal year 1995;

(C) 2,010,100 in fiscal year 1996;

(D) 1,998,500 in fiscal year 1997; or

(E) 1,996,700 in fiscal year 1998.

(3) AVERAGING.—The average total number of civilian employees in the executive branch in a fiscal year shall, for purposes of this subsection, be the average number in such fiscal year, as determined under regulations prescribed under paragraph (5). Any such average shall be determined on a "full-time equivalent" basis.

(4) VOLUNTARY MEASURES.—To the extent practicable, any reductions necessary to achieve compliance with any limitation under paragraph (2) shall be effected through attrition or other voluntary measures.

(5) REGULATIONS.—The President shall prescribe regulations to carry out this subsection.

(f) PAY-LIMITATION PROVISIONS MADE APPLICABLE TO CERTAIN EMPLOYEES IN THE JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts shall take such measures as may be necessary to ensure that the purposes of subsections (a) and (b) of section 10003 and subsections (a)(1) (if applicable) and (b) of this section are carried out with respect to employees who are subject to the personnel management system established by the Director under section 3 of Public Law 101-474 (28 U.S.C. 602 note).

SEC. 10005. APPLICATION OF MEDICARE PART B LIMITS TO PHYSICIANS' SERVICES FURNISHED TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) IN GENERAL.—Section 8904(b) of title 5, United States Code, is amended—

(1) in paragraph (1) by inserting "(A)" after "(b)(1)" and by adding at the end the following:

"(B)(i) A plan, other than a prepayment plan described in section 8903(4), may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not entitled to Medicare supplementary medical insurance benefits under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), to pay a charge imposed for physicians' services (as defined in section 1848(j) of such Act, 42 U.S.C. 1395w-4(j)) which are covered for purposes of benefit payments under this chapter and under such part, to the extent that such charge exceeds the fee schedule amount under section 1848(a) of such Act (42 U.S.C. 1395w-4(a)).

"(ii) Physicians and suppliers who have in force participation agreements with the Secretary of Health and Human Services consistent with section 1842(h)(1) of such Act (42 U.S.C. 1395u(h)(1)), whereby the participating provider accepts Medicare benefits (including allowable deductible and coinsurance amounts) as full payment for covered items and services shall accept equivalent benefit and enrollee cost-sharing under this chapter as full payment for services described in clause (i). Physicians and suppliers who are nonparticipating physicians and suppliers for purposes of part B of title XVIII of such Act shall not impose charges that exceed the limiting charge under section 1848(g) of such Act (42 U.S.C. 1395w-4(g)) with respect to services described in clause (i) provided to enrollees described in such clause. The Office of Personnel Management shall notify a physician or supplier who is found to have violated this clause and inform them of the requirements of this clause and sanctions for such a violation. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a physician or supplier is found to knowingly and willfully violate this clause on a repeated basis and the Secretary of Health and Human Services may invoke appropriate sanctions in accordance with sections 1128A(a) and section 1848(g)(1) of such Act (42 U.S.C. 1320a-7a(a), 1395w-4(g)(1)) and applicable regulations.

"(C) If the Secretary of Health and Human Services determines that a violation of this subsection warrants excluding a provider from participation for a specified period under title XVIII of the Social Security Act, the Office shall enforce a corresponding exclusion of such provider for purposes of this chapter.";

(2) in paragraph (3)(B)—

(A) by inserting "(i)" after "includes"; and

(B) by inserting before the period at the end the following: ", and (ii) the fee schedule

amounts and limiting charges for physicians' services established under section 1848 of such Act (42 U.S.C. 1395w-4) and the identity of participating physicians and suppliers who have in force agreements with such Secretary under section 1842(h) of such Act (42 U.S.C. 1395u(h))"; and

(3) by adding at the end the following:

"(4) The Director of the Office of Personnel Management shall certify, before the first day of the fifth month that begins before each contract year, that there is in effect an arrangement with the Secretary of Health and Human Services under which, before the beginning of the contract year—

"(A) physicians and suppliers (whether or not participating) under the Medicare program will be notified of the requirements of paragraph (1)(B);

"(B) enforcement procedures will be in place to carry out such paragraph (including enforcement of protections against overcharging of beneficiaries); and

"(C) Medicare program information described in paragraph (3)(B)(ii) will be supplied to carriers under paragraph (3)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. 10006. TEMPORARY EXTENSION OF METHOD FOR DETERMINING GOVERNMENT CONTRIBUTIONS UNDER FEHBP IN THE ABSENCE OF A GOVERNMENT-WIDE INDEMNITY BENEFIT PLAN.

(a) IN GENERAL.—Public Law 101-76 (5 U.S.C. 8906 note) is amended in subsection (a)(1) by striking "1993" and inserting "1998".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that nothing in this section should be considered to reflect any view on the appropriateness, merits, or timing, or any other aspect of any comprehensive health care reform legislation.

Subtitle B—Postal Service

SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED STATES POSTAL SERVICE.

(a) RELATING TO CORRECTED CALCULATIONS FOR PAST RETIREMENT COLAS.—In addition to any other payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund a total of $693,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and

(3) any remaining balance shall be paid not later than September 30, 1997.

(b) RELATING TO CORRECTED CALCULATIONS FOR PAST HEALTH BENEFITS.—In addition to any other payments required under section 8906(g)(2) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Employees Health Benefits Fund a total of $348,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and

(3) any remaining balance shall be paid not later than September 30, 1997.

Subtitle C—Revenue Forgone Reform

SEC. 10201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Revenue Forgone Reform Act".

(b) TABLE OF CONTENTS.—The table of contents for this subtitle is as follows:

Sec. 10201. Short title; table of contents.
Sec. 10202. References.
Sec. 10203. Repeal of authorization of appropriations for mail sent at reduced rates of postage.
Sec. 10204. Establishing reduced rates of postage.
Sec. 10205. Eligibility of certain mailings for reduced rates of postage.
Sec. 10206. Provisions relating to rates for books and certain other materials.
Sec. 10207. Sense of Congress.
Sec. 10208. Technical corrections.

SEC. 10202. REFERENCES.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 39, United States Code.

SEC. 10203. REPEAL OF AUTHORIZATION OF APPROPRIATIONS FOR MAIL SENT AT REDUCED RATES OF POSTAGE.

(a) IN GENERAL.—Section 2401(c) is amended—

(1) in the first sentence—

(A) by striking "if sections" through "had not been enacted" and inserting "if sections 3217 and 3403-3406 had not been enacted"; and

(B) by striking "such sections and Acts." and inserting "such sections."; and

(2) in the second sentence—

(A) by striking "(i)"; and

(B) by striking "volume;" through "schedules." and inserting "volume.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to appropriations for fiscal years beginning after September 30, 1993.

SEC. 10204. ESTABLISHING REDUCED RATES OF POSTAGE.

(a) RATES.—

(1) IN GENERAL.—Section 3626(a) is amended to read as follows:

"(a)(1) For the purpose of this subsection—

"(A) the term 'costs attributable', as used with respect to a class of mail or kind of mailer, means the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service);

"(B) the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in paragraph (2)(A) or section 2401(c); and

"(C) the term 'institutional-costs contribution', as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer.

"(2)(A) Except as provided in paragraph (3) or (4), rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

"(i) the estimated costs attributable to such class of mail or kind of mailer; and

"(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

"(B) The applicable percentage for any class of mail or kind of mailer referred to in subparagraph (A) shall be the product derived by multiplying—

"(i) the percentage which, for the most closely corresponding regular-rate category, the institutional-costs contribution for such category represents relative to the estimated costs attributable to such category of mail, times

"(ii)(I) one-twelfth, for fiscal year 1994;

"(II) one-sixth, for fiscal year 1995;

"(III) one-fourth, for fiscal year 1996;

"(IV) one-third, for fiscal year 1997;

"(V) five-twelfths, for fiscal year 1998; and

"(VI) one-half, for any fiscal year after fiscal year 1998.

"(C) For temporary special authority to permit the timely implementation of the preceding provisions of this paragraph, see section 3642.

"(D) For purposes of establishing rates of postage under this subchapter for any of the classes of mail or kinds of mailers referred to in subparagraph (A), subclauses (I) through (V) of subparagraph (B)(ii) shall be deemed amended by striking the fraction specified in each such subclause and inserting 'one-half'.

"(3) The rates for the advertising portion of any mail matter under former section 4358(d) or 4358(e) of this title shall be equal to the rates for the advertising portion of the most closely corresponding regular-rate category of mail, except that if the advertising portion does not exceed 10 percent of the issue of the publication involved, the advertising portion shall be subject to the same rates as apply to the nonadvertising portion.

"(4) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.".

(2) SPECIAL AUTHORITY.—Subchapter III of chapter 36 is amended by adding at the end the following:

"§ 3642. Special authority relating to reduced-rate categories of mail

"(a) In order to permit the timely implementation of section 3626(a)(2), the Postal Service may establish temporary rates of postage for any class of mail or kind of mailer referred to in section 3626(a)(2)(A).

"(b) Any exercise of authority under this section shall be in conformance with the requirements of section 3626(a), subject to the following:

"(1) All 'attributable costs' and 'institutional-costs contributions' assumed shall be the same as those which were assumed for purposes of the then most recent proceedings under subchapter II pursuant to which rates of postage for the class of mail or kind of mailer involved were last adjusted.

"(2) Any temporary rate established under this section shall take effect upon such date as the Postal Service may determine, except that—

"(A) such a rate may take effect only after 10 days' notice in the Federal Register; and

"(B) no such rate may take effect after September 30, 1998.

"(3) A temporary rate under this section may remain in effect no longer than the last day of the fiscal year in which it first takes effect.

"(4) Authority under this section may not be exercised in a manner that would result in more than 1 change taking effect under this section, during the same fiscal year, in the rates of postage for a particular class of mail or kind of mailer, except as provided in paragraph (5).

"(5) Nothing in paragraph (4) shall prevent an adjustment under this section in rates for a class of mail or kind of mailer with respect to which any rates took effect under this section earlier in the same fiscal year if—

"(A) the rates established for such class of mail or kind of mailer by the earlier adjust-

ment are superseded by new rates established under subchapter II; and

"(B) authority under this paragraph has not previously been exercised with respect to such class of mail or kind of mailer based on the new rates referred to in subparagraph (A).

"(c) The Postal Service may prescribe any regulations which may be necessary to carry out this section, including provisions governing the coordination of adjustments under this section with any other adjustments under this title.".

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) SECTION 3626.—Section 3626(i) is repealed.

(B) SECTION 3627.—

(i) IN GENERAL.—Section 3627 is amended—

(I) by striking "sent at a free or reduced rate under section 3217, 3403–3406, or 3626 of this title," and inserting "sent free of postage under section 3217 or 3403–3406"; and

(II) in the section heading by striking **"and reduced"**.

(ii) TABLE OF CONTENTS.—The table of contents for chapter 36 is amended—

(I) by striking the item relating to section 3627 and inserting the following:

"3627. Adjusting free rates.";

and

(II) by inserting after the item relating to section 3641 the following:

"3642. Special authority relating to reduced-rate categories of mail.".

(b) AUTHORIZATION.—

(1) IN GENERAL.—Section 2401 is amended—

(A) by striking subsections (d) through (f);

(B) by redesignating subsections (g) through (i) as subsections (e) through (g), respectively;

(C) in subsection (f) (as so redesignated by subparagraph (B)) by striking the second sentence;

(D) in subsection (g) (as so redesignated by subparagraph (B)) by striking "subsections (b) and (d) of this section" and inserting "subsection (b)"; and

(E) by inserting after subsection (c) the following:

"(d) As reimbursement to the Postal Service for losses which it incurred as a result of insufficient amounts appropriated under section 2401(c) for fiscal years 1991 through 1993, and to compensate for the additional revenues it is estimated the Postal Service would have received under the provisions of section 3626(a), for the period beginning on October 1, 1993, and ending on September 30, 1998, if the fraction specified in subclause (VI) of section 3626(a)(2)(B)(ii) were applied with respect to such period (instead of the respective fractions specified in subclauses (I) through (V) thereof), there are authorized to be appropriated to the Postal Service $29,000,000 for each of fiscal years 1994 through 2035.".

(2) RATEMAKING LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), rates of postage may not be established, under subchapter II of chapter 36 of title 39, United States Code, in a manner designed to allow the United States Postal Service to receive through revenues any portion of the additional revenues (referred to in section 2401(d) of such title, as amended by paragraph (1)(E)) for which amounts are authorized to be appropriated under such section 2401(d).

(B) EXCEPTION.—If Congress fails to appropriate an amount authorized under section 2401(d) of title 39, United States Code (as amended by paragraph (1)(E)), rates for the various classes of mail may be adjusted in accordance with the provisions of subchapter II of chapter 36 of such title (excluding section 3627 thereof) such that the resulting increase in revenues will equal the amount that Congress so failed to appropriate.

(c) APPLICABILITY.—

(1) RATES.—The amendments made by subsection (a) shall apply with respect to rates for mail sent after September 30, 1993.

(2) AUTHORIZATION.—The amendments made by subsection (b) shall apply with respect to appropriations for fiscal years beginning after September 30, 1993.

SEC. 10205. ELIGIBILITY OF CERTAIN MAILINGS FOR REDUCED RATES OF POSTAGE.

(a) ADVERTISING.—Section 3626(j)(1) is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(D) any product or service (other than any to which subparagraph (A), (B), or (C) relates), if—

"(i) the sale of such product or the providing of such service is not substantially related (aside from the need, on the part of the organization promoting such product or service, for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of one or more of the purposes constituting the basis for the organization's authorization to mail at such rates; or

"(ii) the mail matter involved is part of a cooperative mailing (as defined under regulations of the Postal Service) with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

except that—

"(I) any determination under clause (i) that a product or service is not substantially related to a particular purpose shall be made under regulations which shall be prescribed by the Postal Service based on subsections (a) and (c) of section 513 of the Internal Revenue Code of 1986; and

"(II) clause (i) shall not apply if the product involved is a periodical publication described in subsection (m)(2) (including a subscription to receive any such publication).".

(b) PRODUCTS.—Section 3626 is amended by adding at the end the following:

"(m)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail consisting of products, unless such products—

"(A) were received by the organization as gifts or contributions; or

"(B) are low cost articles (as defined by section 513(h)(2) of the Internal Revenue Code of 1986).

"(2) Paragraph (1) shall not apply with respect to a periodical publication of a qualified nonprofit organization.".

(c) CERTIFICATION; VERIFICATION.—Section 3626(j)(3) is amended—

(1) by striking "(3)" and inserting "(3)(A)"; and

(2) by adding at the end the following:

"(B) The Postal Service shall establish procedures to carry out this paragraph, including procedures for mailer certification of compliance with the conditions specified in paragraph (1)(D) or subsection (m), as applicable, and verification of such compliance.".

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to mail sent, and the rates for mail sent, after September 30, 1993.

SEC. 10206. PROVISIONS RELATING TO RATES FOR BOOKS AND CERTAIN OTHER MATERIALS.

(a) IN GENERAL.—Section 3683(b) is amended to read as follows:

"(b) The rates of postage under former section 4554(b)(1) of this title shall not be effective except with respect to mailings which—

"(1) constitute materials specified in former section 4554(b)(2) of this title; and

"(2) are sent between—

"(A) an institution, organization, or association listed in subparagraph (A) or (B) of such former section 4554(b)(1) and any other such institution, organization, or association;

"(B) an institution, organization, or association referred to in subparagraph (A) and any individual (other than an individual having a financial interest in the sale, promotion, or distribution of the materials involved); or

"(C) an institution, organization, or association referred to in subparagraph (A) and a qualified nonprofit organization (as defined in former section 4452(d) of this title) that is not such an institution, organization, or association.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to mail sent after September 30, 1993.

SEC. 10207. SENSE OF CONGRESS.

It is the sense of the Congress that any legislation, enacted after September 30, 1994, which would have the effect of expanding the classes of mail or kinds of mailers eligible for reduced rates of postage should provide for sufficient funding to ensure that neither any losses to the United States Postal Service nor any increase in the rates of postage for any of the other classes of mail or kinds of mailers will result.

SEC. 10208. TECHNICAL CORRECTIONS.

(a) SECTION 410.—Section 410(b) is amended—

(1) in paragraph (8) by striking "and" after the semicolon;

(2) in the first paragraph (9) by striking "Chapter" and inserting "chapter", and by striking the period and inserting "; and"; and

(3) by designating the second paragraph (9) as paragraph (10).

(b) SECTION 3202.—Section 3202(a) is amended—

(1) in paragraph (3) by adding "and" after the semicolon; and

(2) in paragraph (4) by striking "; and" and inserting a period.

(c) SECTION 3210.—The provisions of section 318(3) of Public Law 101–163 (103 Stat. 1068), which amended section 3210 of title 39, United States Code, shall be treated as if, as enacted, the reference in such provisions to "subparagraph (c)" had instead read "subparagraph (C)".

(d) SECTION 3601.—Section 3601(a) is amended by striking "concent" and inserting "consent".

(e) SECTION 3625.—Section 3625(d) is amended by striking "section 3268" and inserting "section 3628".

(f) SECTION 3626.—Section 3626 is amended by redesignating the second subsection (k) as subsection (l).

TITLE XI—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SEC. 11001. AVIATION FEES FOR SERVICES.

(a) IN GENERAL.—Section 313(f) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354(f)) is amended to read as follows:

"(f) FEES FOR SERVICES.—

"(1) IMPOSITION AND COLLECTION.—The following fees are imposed and shall be collected for services rendered:

"(A) AIRCRAFT REGISTRATION FEES.—

"(i) GENERAL RULE.—For registration of an aircraft, the fee to be collected from the owner of the aircraft in each fiscal year beginning after September 30, 1993, shall be determined under the following table:

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.

If the ownership of the aircraft is also transferred in such fiscal year, the fee to be collected for registration of the aircraft in such fiscal year under this subparagraph, as determined from the table, shall be increased by such amount as the Administrator shall determine so that the average amount of the increase for all aircraft collected under this sentence in such fiscal year will be approximately $200.00.

"(ii) EXEMPTIONS.—No fee shall be collected under this subparagraph for registration of an aircraft in a fiscal year if the aircraft—

"(I) is owned or operated by an air carrier exclusively to provide air transportation;

"(II) is owned by, or operated exclusively by or for, the United States Government;

"(III) is registered under a dealer's aircraft registration certificate issued under section 505 of this Act;

"(IV) is not originally certificated with an engine driven electrical system or has not subsequently been certified by the Administrator with such a system installed; or

"(V) is a balloon or glider.

"(B) DESIGNATION AS AVIATION MEDICAL EXAMINERS.—For designation of a person as an aviation medical examiner, the fee to be collected from such person in each fiscal year beginning after September 30, 1993, shall be $500.

"(C) ISSUANCE OF CERTIFICATES TO PILOTS.—After September 30, 1993, the fee to be collected for issuance or renewal of an airman's certificate to a pilot shall be $12. The fee shall be collected from each pilot at least once every 3 fiscal years.

"(2) CONTINUATION OF FEE FOR PROCESSING OF FORMS FOR MAJOR FUEL TANK ALTERATIONS.—

"(A) ESTABLISHMENT AND COLLECTION.—The Administrator may establish such fees as may be necessary to cover the costs associated with processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(B) MAXIMUM AMOUNT.—The amount of any fee under this subsection with respect to processing of a form for a major repair or alternation of a fuel tank or fuel system of an aircraft may not exceed $7.50. Such maximum amount shall be adjusted annually by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(3) COLLECTION AND DEPOSIT IN TRUST FUND.—The amounts of all fees established by or under this subsection shall be collected by the Administrator, or the Secretary of the Treasury for the Administrator, and shall be deposited in the Airport and Airway Trust Fund.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 313 is amended by striking

"(f) Processing fees.".

and inserting

"(f) Fees for services.".

SEC. 11002. RECREATIONAL USER FEES.

(a) IN GENERAL.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d–3) is amended—

(1) by striking "SEC. 210. No entrance" and inserting the following:

"SEC. 210. RECREATIONAL USER FEES.

"(a) PROHIBITION ON ADMISSIONS FEES.—No entrance";

(2) by striking the second sentence; and

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

"(b) FEES FOR USE OF DEVELOPED RECREATION SITES AND FACILITIES.—

"(1) ESTABLISHMENT AND COLLECTION.—Notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)), the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps.

"(2) EXEMPTION OF CERTAIN FACILITIES.—The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

"(3) PER VEHICLE LIMIT.—The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site or facility at which a fee is charged for use of the site or facility as of the date of the enactment of this paragraph) for persons entering the site or facility by private, noncommercial vehicle shall not exceed $3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(4) DEPOSIT INTO TREASURY ACCOUNT.—All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)).".

(b) CONFORMING AMENDMENT FOR CAMPSITES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)) is amended by striking the next to the last sentence.

TITLE XII—COMMITTEE ON VETERANS AFFAIRS

SEC. 12001. SHORT TITLE.

This title may be cited as the "Veterans Reconciliation Act of 1993".

SEC. 12002. EXTENSION OF AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 38 U.S.C. 1710 note) is amended—

(1) by striking out "September 30, 1992" in the first sentence and inserting in lieu thereof "September 30, 1998"; and

(2) by striking out the second sentence.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended—

(1) by striking out "September 30, 1992" in the first sentence and inserting in lieu thereof "September 30, 1998"; and

(2) by striking out the second sentence.

SEC. 12003. EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.

(a) IN GENERAL.—Section 1729(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "non-service-connected"; and

(2) in paragraph (2)—

(A) by inserting "disability and, during the period before October 1, 1998, to a service-connected" after "non-service-connected" in the matter preceding subparagraph (A); and

(B) by striking out "before August 1, 1994," in subparagraph (E) and inserting in lieu thereof "before October 1, 1998,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to care and services furnished under chapter 17 of title 38, United States Code, after September 30, 1993.

SEC. 12004. EXTENSION OF AUTHORITY FOR CERTAIN INCOME VERIFICATION PROVISIONS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(b) AUTHORITY FOR SECRETARY OF TREASURY TO PROVIDE INFORMATION.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out "September 30, 1997" in the last sentence and inserting in lieu thereof "September 30, 1998".

SEC. 12005. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

SEC. 12006. DENIAL OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.

During fiscal year 1994, no increase may be provided in the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code.

SEC. 12007. EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) INCLUSION OF LOSSES.—Section 3732(c) of title 38, United States Code, is amended—

(1) in paragraph (1)(C), by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),"; and

(2) in paragraph (11), by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to all liquidation sales occurring on or after October 1, 1993.

SEC. 12008. INCREASE IN HOME LOAN FEES.

Paragraph (6) of section 3729(a) of title 38, United States Code, is amended to read as follows:

"(6) With respect to a loan closed after September 30, 1993, and before October 1, 1998, for which a fee is collected under paragraph (1), the amount of such fee, as computed under paragraph (2), shall be increased by 0.75 percent of the total loan amount other than in the case of a loan described in subparagraph (A), (D)(ii), or (E) of paragraph (2).".

SEC. 12009. REDUCTION OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) BENEFITS PAYABLE UNDER CHAPTER 30.—Section 3015(g)(1) of title 38, United States Code, is amended by inserting "less one percentage point" after "June 30, 1993,".

(b) BENEFITS PAYABLE UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(2)(A) of title 10, United States Code, is amended by inserting "less one percentage point" after "June 30, 1993,".

(c) TECHNICAL AMENDMENTS.—(1) Section 301(c) of Public Law 102-568 (106 Stat. 4326) is amended by striking out "Section 3015(f)" and inserting in lieu thereof "Section 3015(g) (as redesignated by section 307(a)(1))".

(2) Section 307(a) of such Public Law (106 Stat. 4328) is amended by striking out "(as amended by section 301)".

(3) The amendments made by paragraphs (1) and (2) shall apply as if included in the enactment of Public Law 102-568.

SEC. 12010. LIMITATION ON CHILDREN ELIGIBLE FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) REVISION IN DEFINITION OF CHILDREN ELIGIBLE.—Section 3501(a)(2) of title 38, United States Code, is amended by inserting ", but does not include an individual who is not the natural or legally adopted child of the parent from whom eligibility under this chapter is derived" before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) does not apply with respect to any individual who, before October 1, 1993, files an original application for educational assistance under chapter 35 of title 38, United States Code.

TITLE XIII—COMMITTEE ON WAYS AND MEANS—SAVINGS

Subtitle A—Old-Age, Survivors, and Disability Insurance Program

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SEC. 13001. EXPLICIT REQUIREMENTS FOR MAINTENANCE OF TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) MAINTENANCE OF SERVICE TO LOCAL OFFICES.—

(1) IN GENERAL.—Section 5110(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-272) is amended by adding at the end the following new sentence: "In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service at least the same number of telephone lines to each such local office as was in place as of such date, including telephone sets for connections to such lines.".

(2) EFFECTIVE DATE.—The Secretary of Health and Human Services shall ensure that the requirements of the amendment made by paragraph (1) are carried out no later than 90 days after the date of the enactment of this Act.

(3) GAO REPORT.—The Comptroller General of the United States shall make an independent determination of the number of telephone lines to each local office of the Social Security Administration which are in place as of 90 days after the enactment of this Act and shall report his findings to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 150 days after the date of the enactment of this Act.

(b) MAINTENANCE OF TOLL-FREE TELEPHONE NUMBER SERVICE.—The Secretary of Health and Human Services shall ensure that toll-free telephone service provided by the Social Security Administration is maintained at a level which is at least equal to that in effect on the date of the enactment of this Act.

SEC. 13002. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) LIMITATION ON MANDATORY COVERAGE OF STATE ELECTION OFFICIALS AND ELECTION WORKERS WITHOUT STATE RETIREMENT SYSTEM.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year".

(2) AMENDMENT TO FICA.—Section 3121(b)(7)(F)(iv) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) for any subsequent year with respect to service performed during such subsequent year".

(2) AMENDMENT TO FICA.—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year".

(c) AUTHORITY FOR STATES TO MODIFY COVERAGE AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS AND ELECTION WORKERS.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking "on or after January 1, 1968," and inserting "at any time";

(2) by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under subparagraph (B) for any subsequent year with respect to service performed during such subsequent year"; and

(3) by striking the last sentence and inserting the following new sentence: "Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.".

(d) INDEXATION OF EXEMPT AMOUNT.—Section 218(c)(8) of such Act (as amended by subsection (c)) is further amended—

(1) by inserting "(A)" after "(8)"; and

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

"(B) For each year after 1994, the Secretary shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

"(i) for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

"(ii) such amount as so adjusted, if not a multiple of $100, shall be rounded to the next higher multiple of $100 where such amount is a multiple of $50 and to the nearest multiple of $100 in any other case.

The Secretary shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1994.

SEC. 13003. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS AND FEDERAL DISTRICT COURTS FOR JURY SELECTION PURPOSES.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking "(E)" in the matter preceding subclause (I) and inserting "(F)";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) It is the policy of the United States that—

"(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

"(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

"(ii) The additional purposes described in this clause are the following:

"(I) identifying duplicate names of individuals on master lists used for jury selection purposes, and

"(II) identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

"(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

"(iv) For purposes of this subparagraph, the term 'State' has the meaning such term has in subparagraph (D).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13004. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICEMEN AND FIREMEN UNDER EXISTING COVERAGE AGREEMENTS.

(a) IN GENERAL.—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—

(1) in paragraph (1), by striking "(1)" after "(l)", and by striking "the State of" and all that follows through "prior to the date of enactment of this subsection" and inserting "a State entered into pursuant to this section"; and

(2) by striking paragraph (2).

(b) CONFORMING AMENDMENT.—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking "agreements with the States named in" and inserting "State agreements modified as provided in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act.

SEC. 13005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411(b)), and, if such individual's primary insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.

SEC. 13006. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION.

(a) IN GENERAL.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking "but excluding" and all that follows through "1937" and inserting "but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233"; and

(2) in subparagraph (E), by inserting after "in the case of an individual" the following: "whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual".

(b) CONFORMING AMENDMENT RELATING TO BENEFITS UNDER 1939 ACT.—Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended by striking "but excluding" and all that follows through "1937" and inserting "but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f)(1) of the Social Security Act (42 U.S.C. 415(f)(1))) with respect to benefits payable for months after October 1993.

SEC. 13007. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) EXCLUSION FROM GOVERNMENT PENSION OFFSET PROVISIONS.—Subsections (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4)) are each amended—

(1) in subparagraph (A)(ii), by striking "unless subparagraph (B) applies.";

(2) in subparagraph (A), by striking "The" in the matter following clause (ii) and inserting "unless subparagraph (B) applies. The"; and

(3) in subparagraph (B), by redesignating the existing matter as clause (ii), and by inserting before such clause (ii) (as so redesignated) the following:

"(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).".

(b) EXCLUSION FROM WINDFALL ELIMINATION PROVISIONS.—Section 215(a)(7)(A) of such Act (as amended by section 13006(a) of this Act) and section 215(d)(3) of such Act (as amended by section 13006(b) of this Act) are each further amended—

(1) by striking "and" before "(II)"; and

(2) by striking "section 233" and inserting "section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f) of the Social Security Act) with respect to benefits payable for months after October 1993.

SEC. 13008. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) of the Social Security Act (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended by striking "section 222(b). Whenever" and inserting the following: "section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

"(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

"(B) who does not live in the same household as such individual, and

"(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever".

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking

"Such report need not be made" and all that follows through "The Secretary may grant" and inserting the following: "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

"(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

"(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

"(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant".

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1994.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1994, in taxable years ending after such date.

SEC. 13009. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES.

(a) IN GENERAL.—Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

"(10)(A) Subject to subparagraphs (B) and (C)—

"(i) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self- employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(B)(i) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 215(i) that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insurance benefits or reentitled to disability insurance benefits or died, and

"(ii) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self- employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(C) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

"(B) In any case in which—

"(i) the total monthly benefits with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

"(ii) the individual's primary insurance amount is computed under subparagraph (B)(i) or (C) of section 215(a)(2) by reason of the individual's entitlement to old-age insurance benefits or death,

the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his prior entitlement to disability insurance benefits if such total monthly benefits had been computed without regard to paragraph (6).

"(C) This paragraph shall apply before the application of paragraph (3)(A), and before the application of section 203(a)(1) of this Act as in effect in December 1978.".

(b) CONFORMING AMENDMENT.—Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended by striking "Subject to paragraph (7)," and inserting "Subject to paragraph (7) and except as otherwise provided in paragraph (10)(C),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for the purpose of determining the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 of the Social Security Act based on the wages and self-employment income of an individual who—

(1) becomes entitled to an old-age insurance benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance benefit under section 223 of such Act, or

(3) dies,

after October 1993.

SEC. 13010. AUTHORIZATION FOR DISCLOSURE BY THE SECRETARY OF HEALTH AND HUMAN SERVICES OF INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) IN GENERAL.—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (f) (as so redesignated), by striking "subsection (d)" and inserting "subsection (e)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of this section, in any case in which—

"(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

"(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or redisclosure of such information as may be specified by the Secretary,

the Secretary shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 205(r).".

(b) AVAILABILITY OF INFORMATION RETURNS REGARDING WAGES PAID EMPLOYEES.—Section 6103(l)(5) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information to the Department of Health and Human Services for purposes other than tax administration) is amended—

(1) by striking "for the purpose of" and inserting "for the purpose of—";

(2) by striking "carrying out, in accordance with an agreement" and inserting the following:

"(A) carrying out, in accordance with an agreement";

(3) by striking "program." and inserting "program; or"; and

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

"(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 13011. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY PROGRAMS AND AGENCIES.

(a) PROHIBITION OF UNAUTHORIZED REPRODUCTION, REPRINTING, OR DISTRIBUTION FOR FEE OF CERTAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b-10(a)) is amended—

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

(2) by inserting "(1)" after "(a)"; and

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

"(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.".

(b) ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—

(1) in subparagraph (A) (as redesignated), by striking "Administration', the letters 'SSA' or 'HCFA'," and inserting "Administration', 'Department of Health and Human Services', 'Health and Human Services', 'Supplemental Security Income Program', or 'Medicaid', the letters 'SSA', 'HCFA', 'DHHS', 'HHS', or 'SSI',"; and

(2) in subparagraph (B) (as redesignated), by striking "Social Security Administration" each place it appears and inserting "Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services", and by striking "or of the Health Care Financing Administration".

(c) EXEMPTION FOR USE OF WORDS, LETTERS, SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOVERNMENT AGENCIES BY SUCH AGENCIES.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: "The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.".

(d) INCLUSION OF REASONABLENESS STANDARD.—Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking "convey" and inserting "convey, or in a manner which reasonably could be interpreted or construed as conveying,".

(e) INEFFECTIVENESS OF DISCLAIMERS.—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this

section) is further amended by adding at the end the following new paragraph:

"(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, reprinted, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.".

(f) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C. 1320b-10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.".

(g) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b-10(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) of such Act is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

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

(C) in paragraph (1) (as redesignated), by striking "subparagraph (B)" and inserting "paragraph (2)".

(h) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b-10(c)(1)) is amended by inserting "and the first sentence of subsection (c)" after "and (i)".

(i) PENALTIES RELATING TO SOCIAL SECURITY ADMINISTRATION DEPOSITED IN OASI TRUST FUND.—Section 1140(c)(2) of such Act (42 U.S.C. 1320b-10(c)(2)) is amended in the second sentence by striking "United States." and inserting "United States, except that, to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivor's Insurance Trust Fund.".

(j) ENFORCEMENT.—Section 1140 of such Act (42 U.S.C. 1320b-10) is amended by adding at the end the following new subsection:

"(d) The preceding provisions of this section shall be enforced through the Office of Inspector General of the Department of Health and Human Services.".

(k) ANNUAL REPORTS.—Section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new subsection:

"(e) The Secretary shall include in the annual report submitted pursuant to section 704 a report on the operation of this section during the year covered by such annual report. Such report shall specify—

"(1) the number of complaints of violations of this section received by the Social Security Administration during the year,

"(2) the number of cases in which a notice of violation of this section was sent by the Social Security Administration during the year requesting that an individual cease activities in violation of this section,

"(3) the number of complaints of violations of this section referred by the Social Security Administration to the Inspector General in the Department of Health and Human Services during the year,

"(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

"(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

"(6) the total amount of civil money penalties assessed under this section during the year,

"(7) the number of requests for hearings filed during the year pursuant to subsection (c)(1) of this section and section 1128A(c)(2),

"(8) the disposition during such year of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and

"(9) the total amount of civil money penalties under this section deposited into the Federal Old-Age and Survivors Insurance Trust Fund during the year.".

(l) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

SEC. 13012. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) UNAUTHORIZED DISCLOSURE.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(1) by striking "misdemeanor" and inserting "felony";

(2) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(3) by striking "one year" and inserting "5 years".

(b) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(1) by inserting "social security account number," after "information as to the";

(2) by striking "misdemeanor" and inserting "felony";

(3) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(4) by striking "one year" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 13013. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1993, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or his delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

(b) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (within the meaning of subsection (y)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (y)) for such year;".

(B) Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For purposes of subsection (a)(7)(B)—

"(1) EXCLUSION FOR CERTAIN FARM SERVICE.—The term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5).

"(2) APPLICABLE DOLLAR THRESHOLD.—The term 'applicable dollar threshold' means $1,800. In the case of calendar years after 1994, the Secretary of Health and Human Services shall adjust such $1,800 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If the amount determined under the preceding sentence is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50."

(C) The second sentence of section 3102(a) of such Code is amended—

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "$50" and inserting "the applicable dollar threshold (as defined in section 3121(y)(2)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(y)(2) of the Internal Revenue Code of 1986) for such year. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(4) RELIEF FROM LIABILITY FOR CERTAIN UNDERPAYMENT AMOUNTS.—

(A) IN GENERAL.—On and after the date of the enactment of this Act, an underpayment to which this paragraph applies (and any penalty, addition to tax, and interest with respect to such underpayment) shall not be assessed (or, if assessed, shall not be collected).

(B) UNDERPAYMENTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to an underpayment to the extent of the amount thereof which would not be an underpayment if—

(i) the amendments made by paragraph (1) had applied to all calendar years after 1950 and before 1994, and

(ii) the applicable dollar threshold for any such calendar year were the amount determined under the following table:

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

SEC. 13014. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) IN GENERAL.—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1993.

SEC. 13015. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended to read as follows:

"(1) 1.75 percent of the wages (as defined in section 3121 of the Internal Revenue Code of 1986) paid after December 31, 1992, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1986, which wages shall be certified by the Secretary of Health and Human Services on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and".

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended to read as follows:

"(2) 1.75 percent of the self-employment income (as defined in section 1402 of the Internal Revenue Code of 1986) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1992, which self-employment income shall be certified by the Secretary of Health and Human Services on the basis of the records of self-employment income established and maintained by the Secretary of Health and Human Services in accordance with such returns.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1992, and self-employment income for taxable years beginning after such date.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) MATTERS TO BE INCLUDED IN STUDY.—In conducting the study under this subsection, the Secretary shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than December 31, 1995, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Secretary determines appropriate.

SEC. 13016. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) IN GENERAL.—Section 505 of the Social Security Disability Amendments of 1980 (Public Law 96-265), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and section 5120 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is further amended—

(1) in paragraph (3) of subsection (a), by striking "June 10, 1993" and inserting "June 10, 1996";

(2) in paragraph (4) of subsection (a), by striking "1992" and inserting "1995"; and

(3) in subsection (c), by striking "October 1, 1993" and inserting "June 9, 1996".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13017. TECHNICAL AND CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT.—

(1) Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended, in the matter following clause (4), by striking "and and" and inserting "and".

(2) Section 202(d)(8)(D)(ii) of such Act (42 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a period at the end and by adjusting the left hand margination thereof so as to align with section 202(d)(8)(D)(i) of such Act.

(3) Section 202(q)(1)(A) of such Act (42 U.S.C. 402(q)(1)(A)) is amended by striking the dash at the end.

(4) Section 202(q)(9) of such Act (42 U.S.C. 402(q)(9)) is amended, in the matter preceding subparagraph (A), by striking "parargaph" and inserting "paragraph".

(5) Section 202(t)(4)(D) of such Act (42 U.S.C. 402(t)(4)(D)) is amended by inserting "if the" before "Secretary" the second and third places it appears.

(6) Clauses (i) and (ii) of section 203(f)(5)(C) of such Act (42 U.S.C. 403(f)(5)(C)) are amended by adjusting the left-hand margination thereof so as to align with clauses (i) and (ii) of section 203(f)(5)(B) of such Act.

(7) Paragraph (3)(A) and paragraph (3)(B) of section 205(b) of such Act (42 U.S.C. 405(b)) are amended by adjusting the left-hand margination thereof so as to align with the matter following section 205(b)(2)(C) of such Act.

(8) Section 205(c)(2)(B)(iii) of such Act (42 U.S.C. 405(c)(2)(B)(iii)) is amended by striking "non-public" and inserting "nonpublic".

(9) Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by striking the clause (vii) added by section 2201(c) of Public Law 101–624; and

(B) by redesignating the clause (iii) added by section 2201(b)(3) of Public Law 101–624, clause (iv), clause (v), clause (vi), and the clause (vii) added by section 1735(b) of Public Law 101–624 as clause (iv), clause (v), clause (vi), clause (vii), and clause (viii), respectively;

(C) in clause (v) (as redesignated), by striking "subclause (I) of", and by striking "subclause (II) of clause (i)" and inserting "clause (ii)"; and

(D) in clause (viii)(IV) (as redesignated), by inserting "a social security account number or" before "a request for".

(10) The heading for section 205(j) of such Act (42 U.S.C. 405(j)) is amended to read as follows:

"Representative Payees".

(11) The heading for section 205(s) of such Act (42 U.S.C. 405(s)) is amended to read as follows:

"Notice Requirements".

(12) Section 208(c) of such Act (42 U.S.C. 408(c)) is amended by striking "subsection (g)" and inserting "subsection (a)(7)".

(13) Section 210(a)(5)(B)(i)(V) of such Act (42 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking "section 105(e)(2)" and inserting "section 104(e)(2)".

(14) Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(A) in paragraph (13), by striking "and" at the end; and

(B) in paragraph (14), by striking the period and inserting "; and".

(15) Section 213(c) of such Act (42 U.S.C. 413(c)) is amended by striking "section" the first place it appears and inserting "sections".

(16) Section 215(a)(5)(B)(i) of such Act (42 U.S.C. 415(a)(5)(B)(i)) is amended by striking "subsection" the second place it appears and inserting "subsections".

(17) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting a period after "1990".

(18) Subparagraph (F) of section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended by adjusting the left-hand margination thereof so as to align with section 218(c)(6)(E) of such Act.

(19) Section 223(i) of such Act (42 U.S.C. 423(i)) is amended by adding at the beginning the following heading:

"Limitation on Payments to Prisoners".

(b) RELATED AMENDMENTS.—

(1) Section 603(b)(5)(A) of Public Law 101–649 (amending section 202(n)(1) of the Social Security Act) (104 Stat. 5085) is amended by inserting "under" before "paragraph (1)," and by striking "(17), or (18)" and inserting "(17), (18), or (19)", effective as if this paragraph were included in such section 603(b)(5)(A).

(2) Section 10208(b)(1) of Public Law 101–239 (amending section 230(b)(2)(A) of the Social Security Act) (103 Stat. 2477) is amended by striking "230(b)(2)(A)" and "430(b)(2)(A)" and inserting "230(b)(2)" and "430(b)(2)", respectively, effective as if this paragraph were included in such section 10208(b)(1).

(c) CONFORMING, CLERICAL AMENDMENTS UPDATING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN TITLE II OF THE SOCIAL SECURITY ACT TO THE INTERNAL REVENUE CODE.—

(1)(A) Section 201(a) of such Act (42 U.S.C. 401(a)) is amended—

(i) by striking clauses (1) and (2);

(ii) in clause (3), by striking "(3) the taxes imposed" and all that follows through "December 31, 1954," and inserting "(1) the taxes imposed by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,", and by striking "subchapter or";

(iii) in clause (4), by striking "(4) the taxes imposed" and all that follows through "such Code," and inserting "(2) the taxes imposed by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1986 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code,", and by striking "subchapter or chapter" and inserting "chapter"; and

(iv) in the matter following the clauses amended by this subparagraph, by striking "clauses (3) and (4)" each place it appears and inserting "clauses (1) and (2)".

(B) The amendments made by subparagraph (A) shall apply only with respect to taxes imposed with respect to wages paid on or after January 1, 1993, or with respect to self-employment income for taxable years beginning on or after such date.

(2)(A)(i) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is amended—

(I) in subparagraph (A)(i), by striking "and subchapter E" and all that follows through "1954" and inserting "and chapters 2 and 21 of the Internal Revenue Code of 1986";

(II) in subparagraph (A)(ii), by striking "1954" and inserting "1986";

(III) in the matter in subparagraph (A) following clause (ii), by striking "subchapter E" and all that follows through "1954." and inserting "chapters 2 and 21 of the Internal Revenue Code of 1986.", and by striking "1954 other" and inserting "1986 other"; and

(IV) in subparagraph (B), by striking "1954" each place it appears and inserting "1986".

(ii) The amendments made by clause (i) shall apply only with respect to periods beginning on or after the date of the enactment of this Act.

(B)(i) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended by striking "section 3101(a)" and all that follows through "1950." and inserting "section 3101(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code).", and by striking "wages reported" and all that follows through "1954," and inserting "wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,".

(ii) The amendments made by clause (i) shall apply only with respect to wages paid on or after January 1, 1993.

(C) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended—

(i) by striking "The Board of Trustees shall prescribe before January 1, 1981, the method" and inserting "If at any time or times the Boards of Trustees of such Trust Funds deem such action advisable, they may modify the method prescribed by such Boards";

(ii) by striking "1954" and inserting "1986"; and

(iii) by striking the last sentence.

(3) Section 202(v) of such Act (42 U.S.C. 402(v)) is amended—

(A) in paragraph (1), by striking "1954" and inserting "1986"; and

(B) in paragraph (3)(A), by inserting "of the Internal Revenue Code of 1986" after "3127".

(4) Section 205(c)(5)(F)(i) of such Act (42 U.S.C. 405(c)(5)(F)(i)) is amended by inserting "or the Internal Revenue Code of 1986" after "1954".

(5)(A) Section 208(a)(1) of such Act (42 U.S.C. 408(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "subchapter E" and all that follows through "1954" and inserting "chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1986";

(ii) in subparagraph (A), by inserting "of 1986" after "Internal Revenue Code"; and

(iii) in subparagraph (B), by inserting "of 1986" after "Internal Revenue Code".

(B) The amendments made by subparagraph (A) shall apply only with respect to violations occurring on or after the date of the enactment of this Act.

(6)(A) Section 209(a)(4)(A) of such Act (42 U.S.C. 409(a)(4)(A)) is amended by inserting "or the Internal Revenue Code of 1986" after "Internal Revenue Code of 1954".

(B) Section 209(a) of such Act (42 U.S.C. 409(a)) is amended—

(i) in subparagraphs (C) and (E) of paragraph (4),

(ii) in paragraph (5)(A),

(iii) in subparagraphs (A) and (B) of paragraph (14),

(iv) in paragraph (15),

(v) in paragraph (16), and

(vi) in paragraph (17),

by striking "1954" each place it appears and inserting "1986".

(C) Subsections (b), (f), (g), (i)(1), and (j) of section 209 of such Act (42 U.S.C. 409) are amended by striking "1954" each place it appears and inserting "1986".

(7) Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by inserting "of the Internal Revenue Code of 1986" after "section 162(m)".

(8) Title II of such Act is further amended—

(A) in subsections (f)(5)(B)(ii) and (k) of section 203 (42 U.S.C. 403),

(B) in section 205(c)(1)(D)(i) (42 U.S.C. 405(c)(1)(D)(i)),

(C) in the matter in section 210(a) (42 U.S.C. 410(a)) preceding paragraph (1) and in paragraphs (8), (9), and (10) of section 210(a),

(D) in subsections (p)(4) and (q) of section 210 (42 U.S.C. 410),

(E) in the matter in section 211(a) (42 U.S.C. 411(a)) preceding paragraph (1) and in paragraphs (3), (4), (6), (10), (11), and (12) and clauses (iii) and (iv) of section 211(a),

(F) in the matter in section 211(c) (42 U.S.C. 411(c)) preceding paragraph (1), in paragraphs (3) and (6) of section 211(c), and in the matter following paragraph (6) of section 211(c),

(G) in subsections (d), (e), and (h)(1)(B) of section 211 (42 U.S.C. 411),

(H) in section 216(j) (42 U.S.C. 416(j)),

(I) in section 218(e)(3) (42 U.S.C. 418(e)(3)),

(J) in section 229(b) (42 U.S.C. 429(b)),

(K) in section 230(c) (42 U.S.C. 430(c)), and

(L) in section 232 (42 U.S.C. 432),

by striking "1954" each place it appears and inserting "1986".

(d) RULES OF CONSTRUCTION.—

(1) The preceding provisions of this section shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.

(2) Any reference in title II of the Social Security Act to the Internal Revenue Code of 1986 shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).

(e) UTILIZATION OF NATIONAL AVERAGE WAGE INDEX FOR WAGE-BASED ADJUSTMENTS.—

(1) DEFINITION OF NATIONAL AVERAGE WAGE INDEX.—Section 209(k) of the Social Security Act (42 U.S.C. 409(k)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) in paragraph (3) (as redesignated), by striking "paragraph (1)" and inserting "this subsection"; and

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

"(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 215(a)(1)(C)(ii), 215(a)(1)(D), 215(b)(3)(A)(ii), 215(i)(1)(E), 215(i)(2)(C)(ii), 224(f)(2)(B), and 230(b)(2) (and 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term 'national average wage index' for any particular calendar year means, subject to regulations of the Secretary under paragraph (2), the average of the total wages for such particular calendar year.

"(2) The Secretary shall prescribe regulations under which the national average wage index for any calendar year shall be computed—

"(A) on the basis of amounts reported to the Secretary of the Treasury or his delegate for such year,

"(B) by disregarding the limitation on wages specified in subsection (a)(1),

"(C) with respect to calendar years after 1990, by incorporating deferred compensation amounts and factoring in for such years the rate of change from year to year in such amounts, in a manner consistent with the requirements of section 10208 of the Omnibus Budget Reconciliation Act of 1989, and

"(D) with respect to calendar years before 1978, in a manner consistent with the manner in which the average of the total wages for each of such calendar years was determined as provided by applicable law as in effect for such years.".

(2) CONFORMING AMENDMENTS.—

(A) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(B) Section 213(d)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B)) is amended by striking "deemed average total wages" and inserting "national average wage index", and by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1976,".

(C) Section 215(a)(1)(B)(ii) of such Act (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

(i) in subclause (I), by striking "deemed average total wages" and inserting "national average wage index"; and

(ii) in subclause (II), by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1977.".

(D) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "deemed average total wages" and inserting "national average wage index".

(E) Section 215(a)(1)(D) of such Act (42 U.S.C. 415(a)(1)(D)) is amended—

(i) by striking "after 1978";

(ii) by striking "and the average of the total wages (as described in subparagraph (B)(ii)(I))" and inserting "and the national average wage index (as defined in section 209(k)(1))"; and

(iii) by striking the last sentence.

(F) Section 215(b)(3)(A)(ii) of such Act (42 U.S.C. 415(b)(3)(A)(ii)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(G) Section 215(i)(1) of such Act (42 U.S.C. 415(i)(1)) is amended—

(i) in subparagraph (E), by striking "SSA average wage index" and inserting "national average wage index (as defined in section 209(k)(1))"; and

(ii) by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(H) Section 215(i)(2)(C)(ii) of such Act (42 U.S.C. 415(i)(1)(C)(ii)) is amended to read as follows:

"(ii) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year on or before November 1 of the current calendar year, based upon the most recent data then available. The Secretary shall include a statement of the fund ratio and the national average wage index (as defined in section 209(k)(1)) and a statement of the effect such ratio and the level of such index may have upon benefit increases under this subsection in any notification made under clause (i) and any determination published under subparagraph (D).".

(I) Section 224(f)(2) of such Act (42 U.S.C. 424a(f)(2)) is amended—

(i) in subparagraph (A), by adding "and" at the end;

(ii) by striking subparagraph (C); and

(iii) by striking subparagraph (B) and inserting the following:

"(B) the ratio of (i) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).".

(J) Section 230(b)(2) of such Act (42 U.S.C. 430(b)(2)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(K) Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking "deemed average total wage" and inserting "national average wage index".

SEC. 13018. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE.

(a) SOCIAL SECURITY ACCOUNT NUMBER INFORMATION.—Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as added by section 1735(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3791)) is amended—

(1) by inserting "(I)" after "(iii)"; and

(2) by striking "The Secretary of Agriculture shall restrict" and all that follows and inserting the following:

"(II) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

"(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

"(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.".

(b) EMPLOYER IDENTIFICATION NUMBER INFORMATION.—Subsection (f) of section 6109 of the Internal Revenue Code of 1986 (as added by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3792)) (relating to access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) SHARING OF INFORMATION AND SAFEGUARDS.—

"(A) SHARING OF INFORMATION.—The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or

instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

"(B) SAFEGUARDS.—The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.";

(2) in paragraph (3), by striking "by the Secretary of Agriculture pursuant to this subsection" and inserting "pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)", and by striking "social security account numbers" and inserting "employer identification numbers"; and

(3) in paragraph (4), by striking "by the Secretary of Agriculture pursuant to this subsection" and inserting "pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)".

SEC. 13019. PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.

(a) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

"(a) GENERAL RULE.—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

"(1) the words 'Department of the Treasury', or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

"(2) the titles 'Secretary of the Treasury' or 'Treasurer of the United States' or the title of any other officer or employee of the Department of the Treasury,

"(3) the abbreviations or initials of any entity referred to in paragraph (1),

"(4) the words 'United States Savings Bond' or the name of any other obligation issued by the Department of the Treasury,

"(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

"(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

"(b) TREATMENT OF DISCLAIMERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

"(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed $5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$25,000' for '$5,000'.

"(3) TIME LIMITATIONS.—

"(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

"(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to recover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

"(4) COORDINATION WITH SUBSECTION (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

"(d) CRIMINAL PENALTY.—

"(1) IN GENERAL.—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than $10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$50,000' for '$10,000'.

"(2) TIME LIMITATIONS.—No person may be prosecuted, tried, or punished under paragraph (1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

"(3) COORDINATION WITH SUBSECTION (c).—No criminal proceeding may be commenced under this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation."

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item:

"333. Prohibition of misuse of Department of the Treasury names, symbols, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) REPORT.—Not later than May 1, 1995, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.

SEC. 13020. AVAILABILITY AND USE OF DEATH INFORMATION UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) IMPROVEMENTS IN PROGRAM FOR USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION.—

(1) ELIMINATION OF STATE RESTRICTIONS ON USE OF INFORMATION.—Section 205(r)(1) of the Social Security Act (42 U.S.C. 405(r)(1)) is amended by adding at the end, after and below subparagraph (B), the following new sentence:

"Any contract entered into pursuant to subparagraph (A) shall not include any restriction on the use of information obtained by the Secretary pursuant to such contract, except to the extent that such use may be restricted under paragraph (6).".

(2) INFORMATION PROVIDED TO STATE AGENCIES FREE OF CHARGE.—

(A) IN GENERAL.—Section 205(r)(4) of such Act (42 U.S.C. 405(r)(4)) is amended to read as follows:

"(4)(A) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a State agency other than under this Act, the Secretary shall to the extent feasible provide such information free of charge through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals, if such arrangement does not conflict with the duties of the Secretary under paragraph (1).

"(B) The Secretary may enter into similar agreements with States to provide information free of charge for their use in programs wholly funded by the States if such arrangement does not conflict with the duties of the Secretary under paragraph (1).".

(B) CONFORMING AMENDMENT.—Section 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is amended by striking "or State".

(3) USE BY STATES OF SOCIAL SECURITY ACCOUNT NUMBERS CONTINGENT UPON PARTICIPATION IN PROGRAM.—Section 205(r)(2) of such Act (42 U.S.C. 405(r)(2)) is amended—

(A) by inserting "(A)" after "(2)"; and

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

"(B) Notwithstanding section 7(a)(2)(B) of the Privacy Act of 1974 and clauses (i) and (v) of subsection (c)(2)(C) of this section, any State which is not a party to a contract with the Secretary meeting the requirements of paragraph (1) (and any political subdivision thereof) may not utilize an individual's social security account number in the administration of any driver's license or motor vehicle registration law.".

(b) STUDY REGARDING IMPROVEMENTS IN GATHERING AND REPORTING OF DEATH INFORMATION.

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of possible improvements in the current methods of gathering and reporting death information by the Federal, State, and local governments which would result in more efficient and expeditious handling of such information.

(2) SPECIFIC MATTERS TO BE STUDIED.—In carrying out the study required under this subsection, the Secretary shall—

(A) ascertain the delays in the receipt of death information which are currently encountered by the Social Security Administration and other agencies in need of such information on a regular basis,

(B) analyze the causes of such delays,

(C) develop alternative options for improving Federal, State, and local agency cooperation in reducing such delays, and

(D) evaluate the costs and benefits associated with the options referred to in subparagraph (C).

(3) REPORT.—Not later than June 1, 1994, the Secretary shall submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted pursuant to this subsection, together with such administrative and legislative recommendations as the Secretary may consider appropriate.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) PROMOTION OF ENTRY INTO NEW CONTRACTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall take such actions as are necessary and appropriate to promote entry into contracts under section 205(r) of the Social Security Act which are in compliance with the requirements of the amendments made by subsection (a).

Subtitle B—Human Resources Amendments

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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.

SEC. 13202. REFERENCES.

Except as otherwise expressly provided, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

CHAPTER 1—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

SEC. 13211. ENTITLEMENT FUNDING FOR SERVICES DESIGNED TO STRENGTHEN AND PRESERVE FAMILIES.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended—

(1) by striking the heading and inserting the following:

"PART B—CHILD AND FAMILY SERVICES

"Subpart 1—Child Welfare Services"; and

(2) by adding at the end the following:

"Subpart 2—Family Preservation and Support Services

"SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.

"(a) PURPOSES; LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of encouraging and enabling each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services, there are authorized to be appropriated to the Secretary—

"(1) $60,000,000 for fiscal year 1994;
"(2) $135,000,000 for fiscal year 1995;
"(3) $240,000,000 for fiscal year 1996;
"(4) $360,000,000 for fiscal year 1997; and
"(5) $600,000,000 for fiscal year 1998.

"(b) RESERVATION OF CERTAIN AMOUNTS.—

"(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve 1 percent of the amount appropriated pursuant to subsection (a) for each fiscal year, for expenditure by the Secretary for evaluation, research, training, and technical assistance related to the program under this subpart.

"(2) STATE COURT ASSESSMENTS.—The Secretary shall reserve $5,000,000 of the amount appropriated pursuant to subsection (a) for fiscal year 1995, and $10,000,000 of the amount so appropriated for each of fiscal years 1996, 1997, and 1998, for grants under section 13212 of the Omnibus Budget Reconciliation Act of 1993.

"(3) INDIAN TRIBES.—The Secretary shall reserve 1 percent of the amount appropriated pursuant to subsection (a) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

"SEC. 431. DEFINITIONS.

"(a) IN GENERAL.—As used in this subpart:

"(1) FAMILY PRESERVATION SERVICES.—The term 'family preservation services' means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including—

"(A) service programs designed to help children—

"(i) where appropriate, return to families from which they have been removed; or

"(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

"(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families;

"(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

"(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents); and

"(E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

"(2) FAMILY SUPPORT SERVICES.—The term 'family support services' means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development, including—

"(A) services described in paragraph (1)(E);

"(B) respite care of children to provide temporary relief for parents and other caregivers;

"(C) structured activities involving parents and children to strengthen the parent-child relationship;

"(D) drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

"(E) information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education and literacy programs, and counseling and mentoring services; and

"(F) early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

"(3) STATE AGENCY.—The term 'State agency' means the State agency responsible for administering the program under subpart 1.

"(4) STATE.—The term 'State' includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

"(5) TRIBAL ORGANIZATION.—The term 'tribal organization' means the recognized governing body of any Indian tribe.

"(6) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe (as defined in section 482(i)(5)) and any Alaska Native organization (as defined in section 482(i)(7)(A)).

"(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

"SEC. 432. STATE PLANS.

"(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

"(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

"(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

"(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

"(C) contains a commitment that the State—

"(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

"(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;

"(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

"(4) contains assurances that not less than 90 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 433 for the fiscal year shall be for services for children and families, and that significant portions of such 90 percent shall be expended—

"(A) for family preservation services; and

"(B) for community-based family support services;

"(5) provides that, by the beginning of the 6th fiscal year during which the plan is in effect, programs under the plan shall be available on a statewide basis, to the extent feasible and appropriate;

"(6) contains assurances that the State will—

"(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services and community-based family support services) of—

"(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

"(ii) the populations which the programs will serve; and

"(iii) the geographic areas in the State in which the services will be available; and

"(B) perform the activities described in subparagraph (A)—

"(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

"(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

"(7) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

"(8)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

"(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A); and

"(9) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

"(b) APPROVAL OF PLANS.—

"(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and nonprofit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and family support services).

"(2) PLANS OF INDIAN TRIBES EXEMPTED FROM INAPPROPRIATE REQUIREMENTS.—The Secretary may exempt a plan submitted by an Indian tribe from any requirement of this section that the Secretary determines would be inappropriate to apply to the Indian tribe, taking into account the resources, needs, and other circumstances of the Indian tribe.

"SEC. 433. ALLOTMENTS TO STATES.

"(a) INDIAN TRIBES.—

"(1) IN GENERAL.—From the amount reserved pursuant to section 430(b)(3), the Secretary shall allot to each Indian tribe with a plan approved under this subpart (except as provided in paragraph (2) of this subsection) an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary.

"(2) SPECIAL RULE.—The Secretary may not allot funds to an Indian tribe with a plan approved under this subpart whose allotment (but for this paragraph) would be less than $10,000 if allotments were made under paragraph (1) to all Indian tribes with plans approved under this subpart with the same or larger numbers of children.

"(b) TERRITORIES.—From the amount appropriated pursuant to section 430 that remains after applying section 430(b) for each fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 421.

"(c) OTHER STATES.—

"(1) IN GENERAL.—From the amount appropriated pursuant to section 430 that remains after applying section 430(b) and subsection (b) of this section for each fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

"(2) FOOD STAMP PERCENTAGE DEFINED.—

"(A) IN GENERAL.—As used in paragraph (1) of this subsection, the term 'food stamp percentage' means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the

average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

"(B) FISCAL YEARS USED IN CALCULATION.—For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State's allotment is calculated under this subsection, for which such data are available to the Secretary.

"SEC. 434. PAYMENTS TO STATES.

"(a) ENTITLEMENT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) of this subsection, each State which has a plan approved under this subpart shall be entitled to payment of the lesser of—

"(A) 75 percent of the total cost of activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under section 433 for the fiscal year.

"(2) SPECIAL RULE.—Upon submission by a State to the Secretary during fiscal year 1994 of an application in such form and containing such information as the Secretary may require (including, if the State is seeking payment of an amount pursuant to subparagraph (B) of this paragraph, a description of the services to be provided with the amount), the State shall be entitled to payment of an amount equal to the sum of—

"(A) such amount not exceeding $1,000,000 as the State may require to develop and submit a plan for approval under section 432; and

"(B) an amount equal to the lesser of—

"(i) 75 percent of the cost of State services to children and families provided in accordance with section 432(a)(4); or

"(ii) the allotment of the State under section 433 for fiscal year 1994, reduced by any amount paid to the State pursuant to subparagraph (A) of this paragraph.

"(b) PROHIBITIONS.—

"(1) NO USE OF OTHER FEDERAL FUNDS FOR STATE MATCH.—Each State receiving an amount paid under paragraph (1) or (2)(B) of subsection (a) may not expend any Federal funds to meet the costs of services described in this subpart not covered by the amount so paid.

"(2) AVAILABILITY OF FUNDS.—

"(A) IN GENERAL.—A State may not expend any amount paid under subsection (a)(1) for any fiscal year after the end of the immediately succeeding fiscal year.

"(B) PLAN DEVELOPMENT.—A State may not expend any amount paid under subsection (a)(2) after the end of fiscal year 1994.

"(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS OF INDIAN TRIBES.—The Secretary shall pay any amount to which an Indian tribe is entitled under this section directly to the tribal organization of the Indian tribe.

"SEC. 435. EVALUATIONS; REPORT.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall evaluate the effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, in accordance with criteria established in accordance with paragraph (2).

"(2) CRITERIA TO BE USED.—In developing the criteria to be used in evaluations under paragraph (1), the Secretary shall consult with appropriate parties, such as—

"(A) State agencies administering programs under this part and part E;

"(B) persons administering child and family services programs (including family preservation and family support programs) for private, nonprofit organizations with an interest in child welfare; and

"(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

"(b) REPORT TO THE CONGRESS.—Not later than December 31, 1997, the Secretary shall submit to the Congress a report containing findings with respect to the evaluations required by subsection (a).

"(c) COORDINATION OF EVALUATIONS.—The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.".

(b) CONFORMING AMENDMENTS.—

(1) Section 422 (42 U.S.C. 622) is amended—

(A) in subsection (a), by striking "this part" and inserting "this subpart";

(B) in subsection (b), by striking "this part" each place such term appears and inserting "this subpart"; and

(C) in subsection (b)(2), by inserting "under the State plan approved under subpart 2 of this part," after "part A of this title,".

(2) Section 423(a) (42 U.S.C. 623(a)) is amended by striking "this part" and inserting "this subpart".

(3) Section 428(a) (42 U.S.C. 628(a)) is amended by striking "this part" each place such term appears and inserting "this subpart".

(4) Section 471(a)(2) (42 U.S.C. 671(a)(2)) is amended by inserting "subpart 1 of" before "part B".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1993.

SEC. 13212. GRANTS FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.

(a) IN GENERAL.—The Secretary shall make grants, in accordance with this section, to the highest State courts in States participating in the program under part E of title IV of the Social Security Act, for the purpose of enabling such courts—

(1) to conduct assessments, in accordance with subsection (b), of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—

(A) to determine the advisability or appropriateness of foster care placement;

(B) to determine whether to terminate parental rights; and

(C) to legally recognize the adoption of a child; and

(2) to implement changes deemed necessary as a result of the assessments.

(b) ASSESSMENTS.—Each assessment conducted with funds provided under this section shall—

(1) identify the requirements imposed on State courts with respect to proceedings described in subsection (a), addressing separately—

(A) rules, standards, and criteria imposed pursuant to State laws (including laws implementing parts B and E of title IV of the Social Security Act, laws relating to child abuse and neglect, or any other laws on related matters) to be applied in determinations with respect to placement of a child, or with respect to related matters concerning the parent-child relationship and the welfare of the child, including determinations—

(i) whether to remove a child from or return a child to the home of the child;

(ii) whether to place a child in foster care or to continue a foster care placement;

(iii) whether to terminate parental rights;

(iv) whether to place a child for adoption or in another permanent arrangement; and

(v) whether to set aside or to finalize an adoption; and

(B) rules and procedures, established by or under State law or adopted by the State court system on its own initiative, with respect to the conduct of such proceedings, that address matters such as—

(i) whether a proceeding should be judicial or administrative;

(ii) timetables for such proceedings, and determinations of the priority of such proceedings relative to other matters under the jurisdiction of the State courts;

(iii) procedural safeguards of the rights of parents (including foster and adoptive parents), guardians, and children, such as provisions for legal representation and for guardians ad litem; and

(iv) rules for conduct of the proceeding with respect to matters such as admissible evidence, opportunity to present witnesses, and time limits on the presentation of evidence and the making of arguments;

(2) evaluate the performance of the State courts in implementing the requirements identified under paragraph (1), by assessing—

(A) the extent to which particular practices or procedures have been successful in facilitating compliance with such requirements;

(B) the frequency of failures to comply with any such requirements, and patterns with respect to the circumstances of and factors contributing to the failures; and

(C) the extent to which caseload size and resource limitations contribute to the failures identified pursuant to subparagraph (B);

(3) determine the extent to which the rules and practices identified under paragraph (1) or (2) are in accord with recommended standards of national organizations concerned with permanent placement for foster children;

(4) determine, from the standpoint of the State courts, the extent to which particular requirements under paragraph (1)—

(A) are facilitating or impeding achievement of the purposes of such parts B and E, including the goal of appropriate permanent placement for each child; and

(B) are imposing significant administrative burdens on the State court system; and

(5) make specific recommendations for improvement, based on the conclusions reached as a result of activities described in paragraphs (1) through (4), including recommendations for—

(A) changes in Federal or State laws, regulations, or policies;

(B) changes in procedures and practices of the State courts and of the State agencies administering foster care, adoption, child welfare, and child protective services programs;

(C) additional education or training of State court judges, or of personnel of the judicial system or of the State agencies described in subparagraph (B);

(D) collection or dissemination of additional data or information for purposes of increasing the understanding of personnel of State courts and State agencies of matters relating to case review proceedings in general, or to specific case review proceedings; and

(E) increases in manpower, reductions in the number of case reviews, or other changes needed to enable the State courts to better manage their caseloads with respect to such proceedings.

(c) APPLICATIONS.—In order to be eligible for a grant under this section, a highest State court shall submit to the Secretary, at such time and in such form as the Secretary may require, an application containing—

(1) a timetable for conducting and completing the assessment;

(2) a budget for the assessment;

(3) a description of the methods to be used to select State courts for inclusion in, and to conduct, the assessment;

(4) certifications by the head of the State agency administering the State program under such part E, and by the State foster care citizen review board or State organization of such review boards (if any), that such entities have had an opportunity to review and comment on a draft of the application before its submission, and a copy of such comments;

(5) a description of the process to be used by the court to consult with the entities referred to in paragraph (4) of this subsection in conducting the assessment under subsection (b);

(6) an assurance that, to the extent funds provided under this section are not necessary to complete the assessment under subsection (b), the court will use such funds to implement, to the extent feasible, recommendations made pursuant to subsection (b)(5);

(7) an assurance that funds provided under this section will not be used to supplant State or local funds which would otherwise be used for similar purposes;

(8) a commitment to furnish to the Secretary—

(A) an interim report following the end of the 2nd year of assessment activities under this section; and

(B) a final report following the completion of the assessment; and

(9) any other information the Secretary may require.

(d) ALLOTMENTS.—

(1) IN GENERAL.—Each highest State court which has an application approved under subsection (c), and is conducting assessment activities in accordance with this section, shall be entitled to payment, for each of fiscal years 1995 through 1998, from amounts reserved pursuant to section 430(b)(2) of the Social Security Act, of an amount equal to the sum of—

(A) for fiscal year 1995, $75,000 plus the amount described in paragraph (2) for fiscal year 1995; and

(B) for each of fiscal years 1996 through 1998, $85,000 plus the amount described in paragraph (2) for each of such fiscal years.

(2) FORMULA.—The amount described in this paragraph for any fiscal year is the amount that bears the same ratio to the amount reserved pursuant to section 430(b)(2) of the Social Security Act for the fiscal year (reduced by the dollar amount specified in paragraph (1) of this subsection for the fiscal year) as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (c).

(e) USE OF GRANT FUNDS.—Each highest State court which receives funds paid under this section may use such funds to pay—

(1) any or all costs of activities under this section in fiscal year 1995; and

(2) not more than 75 percent of the cost of activities under this section in each of fiscal years 1996, 1997, and 1998.

SEC. 13213. REQUIRED PROTECTIONS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)) is amended—

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

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

(3) by adding at the end the following:

"(9) provide assurances that the State—

"(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

"(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State laws and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including laws and procedures providing for legal representation of such children); and

"(ii) has enacted and is implementing (or within 24 months after the date of the enactment of this paragraph will enact and implement) such laws and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.".

(b) RESTRICTION ON REALLOTMENT.—Section 424 (42 U.S.C. 624) is amended—

(1) in the 1st sentence, by striking "The amount" and inserting the following:

"(a) IN GENERAL.—Subject to subsection (b), the amount"; and

(2) by adding at the end the following:

"(b) EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.—The Secretary shall not reallot under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to comply with section 422(b)(9).".

(c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 423(a) (42 U.S.C. 623(a)) is amended by striking "and in section 427".

(2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by striking "the statistical report required by section" and inserting "with section 422(b)(9) or".

(3) Section 472(d) (42 U.S.C. 672(d)) is amended by striking "427(b)" and inserting "422(b)(9)".

(e) EFFECTIVE DATE.—The amendments and repeal made by this section shall be effective for fiscal years beginning on or after October 1, 1994.

(f) CONSTRUCTION OF SECTION.—This section and the amendments and repeal made by this section shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 of the Social Security Act, as in effect on the effective date of such amendments and repeal.

SEC. 13214. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 13213(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following:

"(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to calendar quarters beginning on or after October 1, 1994.

SEC. 13215. CHILD WELFARE TRAINEESHIPS.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended by inserting after section 428 the following:

"SEC. 429. CHILD WELFARE TRAINEESHIPS.

"The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application—

"(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a 'recipient') will enter into an agreement with the institution under which the recipient agrees—

"(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

"(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the post-secondary education for which the traineeship was awarded;

"(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

"(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary);

"(2) provides assurances that the institution will—

"(A) enter into agreements with child welfare agencies for onsite training of recipients;

"(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

"(C) develop and implement a system that, for the 3-year period that begins on the date any student completes a child welfare services program of study, tracks the employment record of the student, for the purpose of determining the percentage of students who secure employment in the field of child welfare services and remain employed in the field.".

(b) CONFORMING AMENDMENT.—Section 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by inserting "described in section 429" after "including traineeships".

(c) APPLICABILITY.—The amendments made by this section shall apply to grants awarded on or after April 1, 1994.

SEC. 13216. DISSOLVED ADOPTIONS.

(a) ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS.—Section 472 (42 U.S.C. 672) is amended—

(1) in subsection (b), by inserting "or (i)" after "subsection (a)"; and

(2) by adding at the end the following:

"(i) Any State with a plan approved under this part may make foster care maintenance payments under this part on behalf of a child—

"(1) with respect to whom such payments were previously made;

"(2) whose adoption has been set aside by a court;

"(3) who meets the requirements of paragraphs (1), (2), and (3) of subsection (a); and

"(4) who fails to meet the requirements of subsection (a)(4) but would meet such requirements if—

"(A) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for such payments; and

"(B) the adoption were treated as having never occurred.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under part E of title IV of the Social Security Act in fiscal years beginning on or after October 1, 1995.

SEC. 13217. TIME FRAME FOR JUDICIAL DETERMINATIONS ON VOLUNTARY PLACEMENTS.

(a) IN GENERAL.—Section 472(e) (42 U.S.C. 672(e)) is amended—

(1) by striking "No" and inserting "(1) Except as provided in paragraph (2), no"; and

(2) by adding at the end the following:

"(2) If the judicial determination referred to in paragraph (1) is made after the 180-day period described therein, the payments referred to therein may not be made for the period that begins at the end of the 180-day period and ends 180 days after the date of the judicial determination, but shall (unless otherwise prohibited) be made for periods thereafter.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to foster care maintenance payments made, under State plans in fiscal year 1996 and succeeding fiscal years, on behalf of children placed in foster care on or after October 1, 1995.

SEC. 13218. STUDY OF REASONABLE EFFORTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the implementation by the States of section 471(a)(15) of the Social Security Act, giving particular attention to—

(1) standards used by States in determining what action to take, and whether and for how long to continue efforts—

(A) before the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the home of the child; and

(B) to return a child home rather than to seek some other planned, permanent placement; and

(2) the responses of the courts to the State actions described in paragraph (1) of this subsection, including whether such responses facilitate or impede the achievement by State agencies of the objectives of such section 471(a)(15).

(b) REPORT AND RECOMMENDATIONS.—Within 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a report, with such recommendations as the Secretary finds appropriate, based on the results of the study required by subsection (a) of this section, which describes State practices that the Secretary has found effective in achieving the objectives of section 471(a)(15) of the Social Security Act, and, if appropriate, shall set forth model practices for consideration by the States.

SEC. 13219. ENHANCED MATCH FOR AUTOMATED DATA SYSTEMS.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (E); and

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

"(C) 90 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

"(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

"(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

"(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

"(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

"(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and".

(2) TREATMENT OF STATE EXPENDITURES FOR DATA COLLECTION AND INFORMATION RETRIEVAL SYSTEMS.—Section 474 (42 U.S.C. 674), as amended by section 13224 of this Act, is amended by adding at the end the following:

"(c) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures during fiscal years 1994, 1995, and 1996.

(b) TERMINATION OF ENHANCED MATCH.—

(1) IN GENERAL.—Section 474(a)(3)(C) (42 U.S.C. 674(a)(3)(C)), as amended by subsection (a) of this section, is amended by striking "90 percent" each place such term appears and inserting "50 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to expenditures during fiscal years beginning on or after October 1, 1996.

SEC. 13220. PERIODIC REEVALUATION OF FOSTER CARE MAINTENANCE PAYMENTS.

(a) IN GENERAL.—Section 471(a)(11) (42 U.S.C. 671(a)(11)) is amended—

(1) by inserting "(A)" after "(11)";

(2) by striking "and amounts paid as foster care maintenance payments and adoption assistance"; and

(3) by adding at the end the following:

"(B) provides that, at least once every 3 years, the State agency will review the amount paid as foster care maintenance payments and adoption assistance payments to ensure their continuing appropriateness, and will submit to the Secretary (and make available to the public) a report on the results of the review, in such form and manner as the Secretary may by regulation require, which contains, at a minimum—

"(i) a statement of the manner in which the foster care maintenance payment level is determined, including information on the cost of foster care with respect to which such payments are made;

"(ii) information on the amount of the basic foster care maintenance payment level, and as to whether such payment level includes an amount to cover the cost of clothing, and whether such payment level varies by the type of care or the special needs or age of the child, and, if so, the payment levels for each special needs, care, or age category;

"(iii) if such payments are not made at a different rate for children who test positive for human immunodeficiency virus, have acquired immune deficiency syndrome, are addicted to drugs, suffer from complications due to exposure to drugs or alcohol, or have other severe special needs, the reasons therefor; and

"(iv) information on any limitations imposed by the State on adoption assistance payment levels;".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1994.

SEC. 13221. DISPOSITIONAL HEARING.

Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking "periodically" and inserting "not less frequently than every 12 months".

SEC. 13222. HEALTH CARE PLANS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 475(1)(C) (42 U.S.C. 675(1)(C)) is amended—

(1) in clause (vii), by striking "and"; and

(2) by redesignating clause (viii) as clause (ix) and inserting after clause (vii) the following:

"(viii) a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services under title XIX; and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to case plans established or reviewed on or after January 1, 1994.

SEC. 13223. INDEPENDENT LIVING.

(a) TREATMENT OF ASSETS OF PARTICIPATING YOUTHS.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) Notwithstanding any other provision of this title, with respect to a child who is included in a program established by a State agency under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for purposes of determining eligibility for benefits under this title may be disregarded for the purpose of allowing the child to establish a household, pursue education, or otherwise complete the transition to independent living. The amount disregarded may not exceed an amount determined by the State agency to be reasonable for such purposes.".

(b) PERMANENT EXTENSION OF PROGRAM.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsection (a)(1), by striking the 3rd sentence;

(2) in subsection (c), by striking "of the fiscal years 1988 through 1992" and inserting "succeeding fiscal year";

(3) in subsection (e)(1)(A), by striking "each of the fiscal years 1987 through 1992" and inserting "fiscal year 1987 and any succeeding fiscal year";

(4) in subsection (e)(1)(B), by striking "fiscal years 1991 and 1992" and inserting "fiscal year 1991 and any succeeding fiscal year"; and

(5) in subsection (e)(1)(C)(ii), by striking "fiscal year 1992" and inserting "any succeeding fiscal year".

(c) EFFECTIVE DATES.—

(1) TREATMENT OF ASSETS OF PARTICIPATING YOUTHS.—The amendments made by subsection (a) shall apply to activities in fiscal years beginning on or after October 1, 1995.

(2) PERMANENT EXTENSION OF PROGRAM.—The amendments made by subsection (b) shall apply to activities engaged in on or after October 1, 1992.

SEC. 13224. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) REPEAL.—Subsections (b) and (c) of section 474 (42 U.S.C. 674(b) and (c)) are hereby repealed.

(b) CONFORMING AMENDMENTS.—Section 474 (42 U.S.C. 674) is amended—

(1) in subsection (d)(1)—

(A) by striking "subsections (a), (b), and (c)" and inserting "subsection (a)"; and

(B) by striking "the provisions of such subsections" and inserting "subsection (a)"; and

(2) by redesignating subsection (d) as subsection (b).

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1993.

SEC. 13225. TRAINING OF AGENCY STAFF AND FOSTER AND ADOPTIVE PARENTS.

(a) IN GENERAL.—Section 8006(b) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 674 note) is amended by striking ", and before October 1, 1992".

(b) RETROACTIVE APPLICABILITY.—The Social Security Act shall be applied and administered as if the amendment made by subsection (a) had been made on October 1, 1992.

SEC. 13226. ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

(a) ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS.—Section 474 (42 U.S.C. 674), as amended by sections 13224 and 13219(a)(2) of this Act, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS FOR PAYMENT.—

"(1) REGULATIONS SPECIFYING REVIEW STANDARDS.—The Secretary shall promulgate regulations applicable to on-site reviews and audits of State expenditures for foster care maintenance payments and adoption assistance payments under this part, which specify—

"(A) the criteria to be used to determine the appropriateness of expenditures identified in sampled case files;

"(B) the criteria to be used to determine the appropriateness of expenditures for child placement services and plan administration; and

"(C) the types of erroneous expenditures which will be disregarded for purposes of determining the appropriateness of payments under this part (including erroneous payments resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary).

"(2) DEVELOPMENT AND PUBLICATION OF WRITTEN STANDARDS AND PROCEDURES.—The Secretary, after consultation with organizations representing State and local governmental agencies with responsibility for foster care and adoption services and other relevant agencies and organizations, shall develop and furnish to State agencies a written description of the methods and procedures to be used in the on-site audits and reviews referred to in paragraph (1), which specify—

"(A) the methods and procedures to be used to select a sample of case files for review or audit;

"(B) the procedures to be used in reviewing or auditing sampled case files to determine erroneous expenditures;

"(C) the procedures to be used to review or audit State expenditures for child placement services and plan administration; and

"(D) the methodology to be used to extrapolate from review or audit findings to all expenditures under the State plan.

"(3) ADVANCE NOTICE TO STATES.—The Secretary shall not, in a review or audit of State expenditures during a fiscal year, use any criterion specified pursuant to paragraph (1), or any procedure or methodology specified pursuant to paragraph (2), which was not published in final regulations or furnished in writing to the State (as applicable) at least 3 months before the beginning of the fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures in fiscal years beginning on or after October 1, 1994.

SEC. 13227. CONFORMITY REVIEWS.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

"SEC. 1123. REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR COMPLIANCE WITH STATE PLAN REQUIREMENTS.

"(a) IN GENERAL.—The Secretary shall not impose a financial penalty on any State for any failure of the State programs under parts B and E of title IV to comply with any requirement of any State plan approved under such part B or E, except pursuant to final regulations, developed after consultation with State agencies administering such programs, which meet the requirements of this section.

"(b) ELEMENTS OF REVIEW SYSTEM.—The regulations referred to in subsection (a) shall—

"(1) specify the timetable for compliance reviews of State programs, which—

"(A) shall provide for annual reviews of each State program during the 1st 2 years of operation;

"(B) shall provide for review of a State program not later than 1 year following a review in which the State program was found not to be in substantial compliance with plan requirements; and

"(C) may provide for less frequent reviews of State programs which have been found to be in substantial compliance with plan requirements, but shall permit the Secretary to reinstate more frequent reviews based on information which indicates that the State program may not be in compliance with plan requirements;

"(2) specify the plan requirements subject to review, and the criteria to be used to measure compliance with such requirements and to determine whether there is a substantial failure to comply with a plan requirement;

"(3) specify the method to be used to determine the financial penalty to be imposed (subject to paragraph (4)) for a failure to comply with plan requirements, which ensures that—

"(A) a financial penalty will not be imposed with respect to a program, unless it is determined that the program fails substantially to so comply;

"(B) a financial penalty will not be imposed for a failure to so comply resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and

"(C) the amount of financial penalty is related to the extent of the noncompliance; and

"(4) require the Secretary, with respect to any State found to have failed substantially to comply with plan requirements—

"(A) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the noncompliance;

"(B) to make technical assistance available to the State to the extent necessary to enable the State to develop and implement such a corrective action plan;

"(C) to suspend the imposition of any penalty under this section while such a corrective action plan is in effect; and

"(D) to rescind any such penalty if the noncompliance is ended by successful completion of such a corrective action plan.

"(c) PROVISIONS FOR ADMINISTRATIVE AND JUDICIAL REVIEW.—The regulations referred to in subsection (a) shall—

"(1) require the Secretary, not later than 10 days after a determination that a program of the State is not in compliance with applicable plan requirements, to notify the State of—

"(A) the basis for the determination; and

"(B) the amount of the financial penalty (if any) imposed on the State;

"(2) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days after receipt of the notice described in paragraph (1) (or, if later, after failure to continue or to complete a corrective action plan); and

"(3) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, within 60 days after the State re-

ceives notice of the decision of the Board, by appeal to the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the program is located.''.

(b) CONFORMING AMENDMENT.—Section 471(b) (42 U.S.C. 671(b)) is amended by striking all that follows the 1st sentence.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(d) CONSTRUCTION.—This section shall not be construed to prevent the Secretary, before the effective date of final regulations meeting the requirements of section 1123 of the Social Security Act, from conducting compliance reviews of State programs under parts B and E of such Act for the purpose of providing information and technical assistance to States concerning corrective actions needed in order to comply with plan requirements applicable to such programs.

SEC. 13228. REPEAL OF ANNUAL REPORT ON VOLUNTARY PLACEMENT.

Section 102(e) of the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C. 672 note) is hereby repealed.

SEC. 13229. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1128B the following:

''SEC. 1129. DEMONSTRATION PROJECTS.

''(a) IN GENERAL.—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

''(b) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

''(1) any provision of section 427 (as in effect before October 1, 1994), section 422(b)(9) (as in effect after such date), or section 479; or

''(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

''(c) TREATMENT AS PROGRAM EXPENDITURES.—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

''(d) DURATION OF DEMONSTRATION.—A demonstration project under this section may be conducted for not more than 5 years.

''(e) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

''(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

''(2) a statement of the period during which the proposed project would be conducted;

''(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

''(4) an estimate of the costs or savings of the proposed project;

''(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

''(6) a description of the proposed evaluation design; and

''(7) such additional information as the Secretary may require.

''(f) EVALUATIONS; REPORT.—Each State authorized to conduct a demonstration project under this section shall—

''(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

''(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

''(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

''(C) any other information that the Secretary may require; and

''(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

''(g) COST NEUTRALITY.—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.''.

SEC. 13230. PLACEMENT ACCOUNTABILITY.

(a) CASE PLAN REQUIREMENTS.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by adding at the end the following: ''which—

''(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which the home is located, sets forth the reasons why such placement is in the best interests of the child, and

''(ii) if the child has been placed in foster care outside the State, requires that, at least every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,''.

(b) DISPOSITIONAL HEARING.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by inserting ''and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child,'' after ''long-term basis)''.

(c) DATA COLLECTION.—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking ''and'' at the end of clause (i); and

(2) by adding at the end the following:

''(iii) children placed in foster care outside the State, and''.

(d) EFFECTIVE DATES.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to fiscal years beginning on and after October 1, 1994.

SEC. 13231. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

Section 474(b) (42 U.S.C. 674(b)), as so redesignated by section 13239(b)(2) of this Act, is amended by adding at the end the following:

''(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

''(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

''(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

''(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

''(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

''(I) upon completion of the review, if it is determined that the claim is not allowable; or

''(II) on the basis of findings of an audit or financial management review.''.

SEC. 13232. MORATORIUM ON COLLECTION OF DISALLOWANCES.

The Secretary of Health and Human Services shall not—

(1) before October 1, 1994, reduce any payment to, withhold any payment from, or seek any repayment from any State under part B or E of title IV of the Social Security Act by reason of a determination made in connection with a review of State compliance with section 427 of such Act for any Federal fiscal year before fiscal year 1995; or

(2) reduce any payment to, withhold any payment from, or seek any repayment from any State under such part E by reason of a determination made in connection with any on-site Federal financial review, or any audit conducted by the Inspector General using similar methodologies.

SEC. 13233. BORDER REGION CHILD WELFARE WORKER TRAINING DEMONSTRATION.

(a) IN GENERAL.—The Secretary shall make grants to not more than 5 eligible institutions to train individuals to deliver culturally sensitive and bilingual child welfare services in areas of the United States that border on Mexico, 1 of which grants shall be for training to deliver child welfare services to historically unserved or underserved populations in an urban center with a high concentration of such populations.

(b) APPLICATIONS.—The Secretary shall approve an application of an institution for a grant under this section only if the application—

(1) demonstrates to the satisfaction of the Secretary that the institution has a history of, or a plan for, training students to deliver culturally sensitive and bilingual child welfare services in a border county;

(2) provides assurances that the institution will develop and implement, in consultation with the child welfare agency of the State in which the institution is located, a curriculum in the field of child welfare services which—

(A) is sensitive to the culture of—

(i) the areas of the United States that border on Mexico; or

(ii) in the case of the institution which receives the urban center grant described in

subsection (a), the historically unserved or underserved populations in the urban center; and

(B) includes training for identification of health problems of children and their families and of child abuse and neglect;

(3) provides assurances that each individual who receives a stipend with such training will enter into an agreement with the institution under which the individual agrees—

(A) to be employed for a period of years equivalent to the period of such training, in a public or private nonprofit family assistance agency that provides services directly to residents of—

(i) the border county in which the agency is located; or

(ii) in the case of the institution which receives the urban center grant described in subsection (a), the urban center in which the agency is located; and

(B) if the individual fails to be so employed for such period, to repay to the Secretary, in accordance with such conditions as the Secretary may prescribe, all or part of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees; and

(4) provides that each agreement entered into with an individual pursuant to paragraph (3) will fully disclose the terms and conditions under which the stipend is to be provided.

(c) EVALUATIONS.—Each institution that receives a grant under this section shall develop and carry out a plan for evaluating the effects of the training provided under the grant, and shall submit to the Secretary a report on the evaluation.

(d) DEFINITIONS.—As used in this section:

(1) FAMILY ASSISTANCE AGENCY.—The term "family assistance agency" means a child welfare agency, family planning agency, hospital, clinic, community mental health facility, or drug and alcohol treatment program.

(2) ELIGIBLE INSTITUTION.—The term "eligible institution" means a public or private nonprofit institution of higher learning that is located in a State that contains a border county.

(3) BORDER COUNTY.—The term "border county" means—

(A) a United States county that borders on Mexico; and

(B) a United States county that borders on a county described in subparagraph (A).

(4) URBAN CENTER.—The term "urban center" means an area in a metropolitan statistical area, as designated by the Office of Management and Budget, which has a high incidence of individuals in historically unserved or underserved populations who are in need of social services, as determined by the Secretary using the most recent and best available information.

(5) HISTORICALLY UNSERVED OR UNDERSERVED POPULATIONS.—The term "historically unserved or underserved populations" includes—

(A) socially and economically disadvantaged populations;

(B) persons with limited English proficiency;

(C) populations residing in urban areas and exhibiting a high incidence of child abuse, neglect, or abandonment, as determined by the Secretary;

(D) homeless persons (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act);

(E) persons who are, or are in danger of becoming, infected with the human immunodeficiency virus; and

(F) persons who abuse alcohol or drugs.

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 13234. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13), as amended by section 13229 of this Act, is amended by inserting after section 1129 the following:

"SEC. 1130. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided, however,* That this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

CHAPTER 2—CHILD SUPPORT ENFORCEMENT

SEC. 13241. STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) PERFORMANCE STANDARDS.—Section 452(g) (42 U.S.C. 652(g)) is amended—

(1) in paragraph (1)—

(A) by striking "1991" and inserting "1994";

(B) by inserting "is based on reliable data and" before "equals or exceeds"; and

(C) by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) 75 percent;

"(B) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for the fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 3 percentage points; or

"(C) for a State with a paternity establishment percentage of less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 6 percentage points."; and

(2) in paragraph (2)—

(A) by striking "(or under all such plans)" each place such term appears;

(B) by inserting "or part E" after "under part A" each place such term appears;

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

"(B) the term 'reliable data' means the most recent data available which are found by the Secretary to be reliable for purposes of this section.";

(D) by inserting "unless paternity is established for such child" after "the death of a parent";

(E) by striking "parent or" and inserting "parent,"; and

(F) by inserting ", or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interest of such child to do so" after "cooperate under section 402(a)(26)".

(b) STATE PLAN REQUIREMENTS.—

(1) REQUIRED PROCEDURES.—Section 466(a) (42 U.S.C. 666(a)) is amended—

(A) in paragraph (2)—

(i) by striking "at the option of the State,"; and

(ii) by inserting "and paternity establishment" after "support order issuance and enforcement";

(B) in paragraph (5), by adding at the end the following:

"(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must explain the rights and responsibilities of acknowledging paternity, and afford due process safeguards. Such procedures must include (i) a hospital-based program for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child, and (ii) the inclusion of signature lines on applications for official birth certificates which, once signed by the father and the mother, are considered a voluntary acknowledgment of paternity.

"(D) Procedures under which the voluntary acknowledgment of paternity of a child by an individual in the manner described in subparagraph (C)(ii) creates a rebuttable or, at the option of the State, conclusive presumption that the individual is the father of the child, and under which such a voluntary acknowledgment is admissible as evidence of paternity.

"(E) Procedures under which a voluntary acknowledgment of paternity in the manner described in subparagraph (C)(ii) must be recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity.

"(F) Procedures requiring that (i) any objection to genetic testing results be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, and (ii) if no objection is made, the test results be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity of a child, upon genetic testing results indicating a threshold probability of the alleged father being the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing that process has been served on the defendant and any additional showing required by State law."; and

(C) by inserting after paragraph (10) the following:

"(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.".

(2) FURNISHING OF SOCIAL SECURITY NUMBERS.—

(A) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)), as amended by paragraph (1)(C) of this subsection, is amended by inserting after paragraph (11) the following:

"(12)(A) Procedures under which, in the administration of any law involving the issuance, reissuance, or amendment of a birth certificate, the State shall require each parent to furnish to the State, or any agency or political subdivision thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than 1 such number) issued to the parent, unless the State (in

accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of the number.

"(B) Procedures under which any number furnished under subparagraph (A) shall be made available to the agency administering the State plan under this part, in accordance with Federal or State law or regulation.

"(C) Procedures under which—

"(i) any number furnished under subparagraph (A) shall not be recorded on the birth certificate; and

"(ii) any social security account number, obtained with respect to the issuance by the State of any birth certificate, shall not be used for other than child support purposes, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of the number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure.".

(B) CONFORMING AMENDMENTS.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended—

(i) by striking "(ii) In the administration of any law involving the issuance" and inserting "(ii) In the administration of any law involving the issuance, reissuance, or amendment"; and

(ii) by striking "any purpose other than for the enforcement of child support orders in effect in the State" and inserting "other than child support purposes".

(c) CONFORMING REPEAL.—Section 468 (42 U.S.C. 668) is hereby repealed.

(d) EFFECTIVE DATE.—The amendments and repeal made by this section shall become effective with respect to a State—

(1) on October 1, 1993, or, if later

(2) upon enactment by the legislature of the State of all laws required by such amendments,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 13242. ENFORCEMENT OF HEALTH INSURANCE SUPPORT.

(a) STATE PLAN REQUIREMENTS.—Section 454(a) (42 U.S.C. 654(a)) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by inserting after paragraph (24) the following:

"(25) provide assurances satisfactory to the Secretary that the State has in effect laws applicable to health insurers and insurance policies or programs subject to the laws of the State that—

"(A) prohibit insurers' consideration, in determining an individual's eligibility for or coverage under any such policy or program, of such individual's eligibility for or coverage under the plan of any State under title XIX;

"(B) provide that, where an individual assigns rights to any State in accordance with section 1912, that State is subrogated, to the extent of medical assistance furnished, to the individual's rights under any health insurance policy or program;

"(C) prohibit insurers from applying, to State agencies administering programs under title XIX and acting as agents or subrogees (for purposes of insurance policies or programs of such insurers) of individuals receiving medical assistance under such State programs, requirements (with respect to deadlines for filing claims or any other matters) different from requirements applicable to any other applicant, beneficiary, agent, or subrogee;

"(D) prohibit insurers from denying enrollment of a child under the health insurance coverage of the child's parent on grounds that—

"(i) the child does not reside with the parent, or

"(ii) the child was born out of wedlock;

"(E) in any case where a parent is required by court or administrative order to provide health insurance coverage for a child, require insurers, without regard to otherwise applicable enrollment season restrictions—

"(i) to permit such parent, upon application, to enroll in family coverage (if otherwise eligible and not already so enrolled), and to enroll such child under such family coverage, and

"(ii) where such a parent who is enrolled in family coverage fails to make application, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this part or title XIX; and

"(F) in any case where a child is covered under the health insurance of a noncustodial parent, require insurers—

"(i) to permit the custodial parent (or service provider, with the custodial parent's approval), or any State agency administering a program under title XIX, to submit claims for covered services without the approval of the noncustodial parent, and

"(ii) to make payment on claims submitted in accordance with clause (i) directly to the custodial parent, service provider, or State agency submitting such claim;

"(26) provide assurances satisfactory to the Secretary that the State has in effect laws requiring employers doing business in the State—

"(A) upon notice of a court or administrative order requiring an employee to provide health insurance coverage for the employee's child, and upon application by such employee (or, where such employee fails to make application, by the child's other parent or the State agency administering the program under this part or title XIX), to permit enrollment of such child at any time as a dependent of the employee under the employer's group health insurance;

"(B) to permit disenrollment from such group health insurance by such employee, or elimination of coverage of such child, only upon receipt of satisfactory evidence, in writing, that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the employee has enrolled or will enroll in alternative health insurance covering such child which will take effect immediately upon the effective date of such disenrollment; and

"(C) to withhold from such employee's compensation the employee's share (if any) of premiums for such health insurance, and to pay such share of premiums to the insurer;

"(27) provide assurances satisfactory to the Secretary that the State has in effect laws requiring the State agency to garnish the wages, salary, or other employment income of, and to withhold amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of medical services to an individual eligible for medical assistance under title XIX,

"(B) has received payment from a third party for the costs of medical services to such individual, and

"(C) has not used such payments to reimburse, as appropriate, either such individual or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under title XIX, but any claims for current or past-due child support shall take priority over any such claims for the costs of medical services.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) apply to calendar quarters beginning on or after April 1, 1994, except as provided in paragraph (2).

(2) EXTENSION FOR STATE LAW AMENDMENT.—In the case of a State plan under part D of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 13243. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting ", and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1994.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social Security Act, or October 1, 1995, whichever occurs earlier.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

SEC. 13251. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) IN GENERAL.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is amended—

(A) by inserting "(1)" after "(d)";

(B) by inserting ", plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)" before the period; and

(C) by adding after and below the end the following:

"(2)(A) The Secretary shall assess each State an administration fee in an amount equal to—

"(i) the number of supplementary payments made by the Secretary on behalf of the State under this section for any month in a fiscal year; multiplied by

"(ii) the applicable rate for the fiscal year.

"(B) As used in subparagraph (A), the term 'applicable rate' means—

"(i) for fiscal year 1994, $1.67;

"(ii) for fiscal year 1995, $3.33;

"(iii) for fiscal year 1996, $5.00; and

"(iv) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to criteria established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

"(C) All fees collected pursuant to this paragraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

"(3)(A) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this section.

"(B) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in subparagraph (A).

"(C) The additional services fee shall be payable in advance or by way of reimbursement.

"(4) All administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—Section 212(b)(3) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) by inserting "(A)" after "(3)";

(B) by inserting ", plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C)" before the period; and

(C) by adding after and below the end the following:

"(B)(i) The Secretary shall assess each State an administration fee in an amount equal to—

"(I) the number of supplementary payments made by the Secretary on behalf of the State under this subsection for any month in a fiscal year; multiplied by

"(II) the applicable rate for the fiscal year.

"(ii) As used in clause (i), the term 'applicable rate' means—

"(I) for fiscal year 1994, $1.67;

"(II) for fiscal year 1995, $3.33;

"(III) for fiscal year 1996, $5.00; and

"(IV) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to regulations established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

"(iii) All fees collected pursuant to this subparagraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

"(C)(i) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

"(ii) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).

"(iii) The additional services fee shall be payable in advance or by way of reimbursement.

"(D) All administration fees and additional services fees collected pursuant to this paragraph shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act or section 212(a) of Public Law 93-66 for any calendar month beginning after September 30, 1993, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.

SEC. 13252. EXCLUSION FROM INCOME OF STATE RELOCATION ASSISTANCE.

Section 5035(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1382a note; 104 Stat. 1388-225) is amended—

(1) by striking "The amendments made by this section" and inserting "(1) The amendments made by subsection (b)"; and

(2) by adding at the end the following:

"(2) The amendments made by subsection (a) shall apply with respect to benefits for calendar months beginning on or after May 1, 1991.".

SEC. 13253. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY FOR, AND AMOUNT OF, BENEFITS WHEN SPOUSE OR PARENT OF BENEFICIARY IS ABSENT FROM THE HOUSEHOLD DUE TO ACTIVE MILITARY SERVICE.

(a) ABSENT PERSON GENERALLY DEEMED TO BE LIVING IN THE HOUSEHOLD.—Section 1614(f) (42 U.S.C. 1382c(f)) is amended by adding at the end the following:

"(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.".

(b) EXCLUSION FROM INCOME OF HAZARDOUS DUTY PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (18), by striking "and" the 2nd place such term appears;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) special pay received pursuant to section 310 of title 37, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 2nd month that begins after the date of the enactment of this Act.

SEC. 13254. ELIGIBILITY FOR CHILDREN OF ARMED FORCES PERSONNEL RESIDING OUTSIDE THE UNITED STATES OTHER THAN IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking "the District of Columbia" and all that follows to the period and inserting "and who, for the month before the parent reported for such assignment, received a benefit under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 13255. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by striking "a child" and inserting "an individual".

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

SEC. 13256. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN BENEFITS.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking "and (5)" and inserting "(5), and (6)"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid for months after the calendar year 1993.

SEC. 13257. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS RECEIVED BY INDIANS FROM INTERESTS HELD IN TRUST.

(a) IN GENERAL.—Section 8 of the Act of October 19, 1973, (25 U.S.C. 1408) is amended by inserting ", and the first $2,000 per year of income received by individual Indians that is derived from such interests shall not be considered income," after "resource".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1993.

CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 13261. 50 PERCENT FEDERAL MATCH OF STATE ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended by striking "the sum of" and all that follows through the end of subparagraph (D) and inserting "50 percent of the total amounts expended during such quarter as the Secretary has found necessary for the proper and efficient administration of the State plan (including any amounts expended by the State to carry out initial evaluations under section 486(a)).".

(b) OPTIONAL USE OF CERTAIN PROCEDURES TO VERIFY IMMIGRATION STATUS OF AFDC APPLICANTS.—Section 1137(d) (42 U.S.C. 1320b-7(d)) is amended—

(1) in each of paragraphs (3) and (4)(B)(i), by inserting "(or, in the case of the program specified in subsection (b)(1), may)" after "shall"; and

(2) in paragraph (4), by inserting "(if required)" after "verified".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to payments made for calendar quarters beginning on or after April 1, 1994.

(2) DELAYED APPLICABILITY TO CERTAIN STATES.—

(A) IN GENERAL.—The Secretary of Health and Human Services may delay the applicability to a qualified State of the amendments made by subsection (a) until the 1st calendar quarter that begins after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this section.

(B) QUALIFIED STATE DEFINED.—As used in subparagraph (A), the term "qualified State" means a State that meets such criteria as the Secretary shall establish and apply uniformly, including whether the State legislature meets biennially and does not have a regular session scheduled in calendar year 1994.

SEC. 13262. DELAY IN EFFECTIVE DATE OF PENALTY FOR FAILURE TO MEET REQUIRED PARTICIPATION RATE FOR UNEMPLOYED PARENTS IN THE JOBS PROGRAM.

Section 403(l)(4)(B) (42 U.S.C. 603(l)(4)(B)) is amended—

(1) in clause (i), by striking "1994" and inserting "1995";

(2) in clause (ii), by striking "1995" and inserting "1996";

(3) in clause (iii), by striking "1996" and inserting "1997"; and

(4) in clause (iv), by striking "1997 and 1998" and inserting "1998 and 1999".

SEC. 13263. REPORT TO THE CONGRESS WITH RESPECT TO PERFORMANCE STANDARDS IN THE JOBS PROGRAM.

Section 487(a) (42 U.S.C. 687(a)) is amended—

(1) by striking "3" and inserting "4";

(2) in paragraph (1), by inserting "criteria for" after "develop";

(3) in paragraph (2), by striking "for" and inserting "with respect to"; and

(4) in the 2nd sentence, by striking "under this subsection" and inserting "with respect to the program under this part".

SEC. 13264. MEASUREMENT AND REPORTING OF WELFARE PARTICIPATION.

(a) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce the rate at which, and the degree to which, families depend on income from welfare programs, and the duration of welfare participation, to assist families toward self-sufficiency, and to increase the living standards of low-income families, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families and improve the life prospects of their children, to ensure that children grow up in families that are economically self-sufficient, and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare participation to improve their education and job skills, to obtain access to high quality child care and other necessary support services, and to take such other steps as may assist them to meet their responsibilities to become financially independent; and

(4) it is the purpose of this section to provide the public with generally accepted measures of welfare participation so that the public can track such participation over time and determine whether progress is being made in reducing the rate at which, and the degree to which, families depend on income from welfare programs, and the duration of welfare participation.

(b) DEVELOPMENT OF WELFARE PARTICIPATION MEASURES AND PREDICTORS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") in consultation with the Secretary of Agriculture shall develop—

(A) measures of—

(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation; and

(B) predictors of welfare participation.

(2) INTERIM REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall provide an interim report containing conclusions resulting from such development, to—

(A) the Committee on Ways and Means of the House of Representatives;

(B) the Committee on Education and Labor of the House of Representatives;

(C) the Committee on Agriculture of the House of Representatives;

(D) the Committee on Energy and Commerce of the House of Representatives;

(E) the Committee on Finance of the Senate;

(F) the Committee on Labor and Human Resources of the Senate; and

(G) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) ADVISORY BOARD ON WELFARE PARTICIPATION.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Participation (in this section referred to as the "Board").

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of measures of the rate at which, and the degree to which, families depend on income from welfare programs, and the duration of welfare participation; and

(B) providing advice on the development and presentation of the report required by subsection (d).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in subsection (c)(4) have been completed, but in any case prior to the submission of the 1st report required by subsection (d).

(d) ANNUAL WELFARE PARTICIPATION REPORTS.—

(1) PREPARATION.—The Secretary shall prepare annual reports on welfare participation in the United States.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each such report shall set forth, for each means-tested benefit program described in paragraph (2)—

(A) measures of—

(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation;

(B) trends in the measures;

(C) predictors of welfare participation;

(D) the causes of welfare participation;

(E) patterns of multiple program participation;

(F) such other information as the Secretary deems relevant; and

(G) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce—

(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation.

(4) SUBMISSION.—The Secretary shall submit such reports not later than 3 years after the date of the enactment of this section, and annually thereafter, to the committees specified in subsection (b)(2). Each such report shall be transmitted during the 1st 60 days of each regular session of the Congress.

SEC. 13265. NEW HOPE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the ab-

sence of the program, for cash assistance and child care under part A of title IV of the Social Security Act and for administrative expenses related to such assistance. In calculating the amount of such payment, the expenses of the program incurred in evaluating the effects of the program may be treated as amounts necessary for the proper and efficient administration of the program, for purposes of part A of title IV of such Act.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (in this section referred to as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) CONTENTS OF APPLICATION.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) EFFECTIVE DATE.—This section shall take effect on the 1st day of the 1st calendar quarter that begins after the date of enactment of this Act.

SEC. 13266. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC–UP PROGRAM.

Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking "October 1, 1992" and inserting "the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act".

SEC. 13267. ADULT IN FAMILY OR HOUSEHOLD ALLOWED TO ATTEST TO CITIZENSHIP STATUS OF FAMILY OR HOUSEHOLD MEMBERS.

(a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C. 1320b–7(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(1)(A)";

(2) by inserting "(other than the aid to families with dependent children program under part A of title IV of this Act)" after "any program listed in subsection (b)"; and

(3) by adding at the end the following:

"(ii) The State shall require, as a condition of an individual's eligibility for benefits under the aid to families with dependent children program under part A of title IV of this Act, a declaration in writing, under penalty of perjury—

"(I) in the case of an individual who is an adult member of a family or household applying for or receiving such benefits, by such individual or another adult member of such family or household on such individual's behalf;

"(II) in the case of an individual who is a child, by an adult on the individual's behalf; or

"(III) in the case of an individual born into a family or household receiving such benefits, by an adult member of such individual's family or household on the individual's behalf no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to benefits provided on or after October 1, 1993.

SEC. 13268. INCREASE IN STEPPARENT INCOME DISREGARD.

(a) IN GENERAL.—Section 402(a)(31) (42 U.S.C. 602(a)(31)) is amended by striking "$75" and inserting "$90".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1994 and such payments for succeeding fiscal years.

SEC. 13269. EXTENSION OF NEW YORK STATE CHILD SUPPORT DEMONSTRATION PROGRAM.

Section 9122(g)(1) of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note; 101 Stat. 1330–312) is amended by striking "five" and inserting "10".

SEC. 13270. EARLY CHILDHOOD DEVELOPMENT PROJECTS.

Section 501(a) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by adding at the end the following:

"(4) For grants to States to conduct demonstration projects under this subsection, there are authorized to be appropriated not to exceed $3,000,000 for each of the fiscal years 1994 through 1998.".

CHAPTER 5—UNEMPLOYMENT INSURANCE

SEC. 13271. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) GENERAL RULE.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(t) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term 'short-time compensation program' means a program under which—

"(1) individuals whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

"(2) the amount of unemployment compensation payable to any such individual is a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

"(3) eligible employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

"(4) eligible employees may participate in an employer-sponsored training program to enhance jobs skills if such program has been approved by the State agency;

"(5) there is a reduction in the number of hours worked by employees in lieu of temporary layoffs;

"(6) there is a plan of an employer (or an employers association which is party to a collective bargaining agreement) approved by the State agency consisting of factors in this subsection or other factors as the Secretary of Labor may find relevant; and

"(7) the employer continues to provide health benefits and pension benefits under a pension plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974) to any employee whose workweek is reduced under such plan.

A short-time compensation program may also contain such other factors as the Secretary of Labor finds relevant.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 3304(a)(4) of such Code is amended to read as follows:

"(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program approved by the Secretary of Labor:".

(2) Paragraph (4) of section 3306(f) of such Code is amended to read as follows:

"(4) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program approved by the Secretary of Labor.".

(3) Section 303(a)(5) of the Social Security Act is amended by striking "the payment of short-time compensation under a plan approved by the Secretary of Labor" and inserting "the payment of short-time compensation under a short-time compensation program (as defined in section 3306(t) of the Internal Revenue Code of 1986) approved by the Secretary of Labor".

SEC. 13272. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND.

Paragraph (1) of section 905(b) of the Social Security Act is amended to read as follows:

"(b)(1) Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount equal to 20 percent of the amount by which—

"(A) the transfers to such account pursuant to section 901(b)(2) during such month, exceed

"(B) the payments during such month from the employment security administration account pursuant to section 901(b)(3) and (d).

If for any month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred.".

SEC. 13273. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL.

In the case of the first Advisory Council on Unemployment Compensation established under section 908 of the Social Security Act, subsection (f) of such section 908 shall be applied—

(1) by substituting "3rd year" for "2d year" in paragraph (1), and

(2) by substituting "February 1, 1995" for "February 1, 1994" in paragraph (2).

SEC. 13274. CLARIFICATION OF EMERGENCY UNEMPLOYMENT BENEFITS PROVISIONS.

(a) IN GENERAL.—Subclauses (II) and (III) of section 102(b)(2)(A)(v) of the Emergency Unemployment Compensation Act of 1991 are amended to read as follows:

"(II) The requirements of this subclause are met for any week if the national rate of total unemployment (seasonally adjusted) for each of the 2 most recent calendar months (not averaged) for which data are published before the close of such week is less than 7 percent, and if the requirements of subclause (III) are not met for such week.

"(III) The requirements of this subclause are met for any week if the national rate of total unemployment (seasonally adjusted) for each of the 2 most recent calendar months (not averaged) for which data are published before the close of such week is less than 6.8 percent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 101(b) of the Unemployment Compensation Amendments of 1992.

SEC. 13275. MODIFICATIONS TO EXTENDED UNEMPLOYMENT PROGRAM.

(a) INCREASE IN REIMBURSEMENT RATE.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking "one-half" and inserting "75 percent".

(b) REPEAL OF SPECIAL ELIGIBILITY REQUIREMENTS.—Subsection (a) of section 202 of such Act is amended—

(1) by striking paragraphs (3), (4), and (7),

(2) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively, and

(3) by striking "paragraphs (3), (4), and (5)" in paragraph (4) (as redesignated by paragraph (1) of this subsection) and inserting "paragraph (3)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to weeks beginning after October 2, 1993.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and October 1, 1993, the amendment made by subsection (b) shall not be a requirement of the State law of such State before the date 30 calendar days after the 1st day on which such legislature is in session on or after October 1, 1993.

SEC. 13276. EXTENSION OF CURRENT FEDERAL UNEMPLOYMENT RATE.

Section 3301 of the Internal Revenue Code of 1986 is amended—

(1) by striking "1996" in paragraph (1) and inserting "1998", and

(2) by striking "1997" in paragraph (2) and inserting "1999".

SEC. 13277. DISCLOSURE OF INFORMATION TO RAILROAD RETIREMENT BOARD.

Section 6103(l)(1)(C) of the Internal Revenue Code of 1986 is amended to read as follows:

"(C) taxes imposed by chapters 22 and 23A, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement and Railroad Unemployment Insurance Acts.".

CHAPTER 6—TECHNICAL PROVISIONS

SEC. 13281. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "a semicolon" and inserting "; and'".

(b) REPEAL OF PROVISION INADVERTENTLY INCLUDED.—Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

(c) AMENDMENT RELATED TO SECTION 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–266) is amended to read as follows:

"(B) TITLE XVI.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:

"'(F) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"'(i) the number of cases in which the representative payee was changed;

"'(ii) the number of cases discovered where there has been a misuse of funds;

"'(iii) how any such cases were dealt with by the Secretary;

"'(iv) the final disposition of such cases (including any criminal penalties imposed); and

"'(v) such other information as the Secretary determines to be appropriate.'.".

(d) AMENDMENT RELATED TO SECTION 5105(a)(1)(B).—The 2nd paragraph of section 1631(a) (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(e) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

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

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(f) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(g) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(h) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(i) AMENDMENT RELATED TO SECTION 13101(d)(2).—Section 256(k)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "—" the 2nd place it appears and all that follows through "(I)"; and

(2) by striking "; or" and all that follows through "(II)" and inserting ", except that a State may not be allotted an amount under this subparagraph that exceeds".

(j) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 13282. TECHNICAL CORRECTIONS RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) AMENDMENT RELATING TO SECTION 8004(a).—Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is amended by striking "a fiscal" and inserting "the fiscal".

(b) AMENDMENT RELATING TO SECTION 8006(a).—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(c) AMENDMENT RELATING TO SECTION 8007(b)(3).—Subparagraph (D) of section 475(5) (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of the Omnibus Budget Reconciliation Act of 1989 to which the amendment relates, at the time the provision became law.

SEC. 13283. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) TREATMENT OF EITC AS EARNED INCOME.—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) ADJUSTMENT OF BENEFITS DUE TO TREATMENT OF EITC AS EARNED INCOME.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 13284. REDESIGNATION OF CERTAIN PROVISIONS.

Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

Subtitle C—Medicare Program

SEC. 13400. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Subtitle C—Medicare Program

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 payments 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.
CHAPTER 5—TREATMENT OF CERTAIN STATE HEALTH CARE PROGRAMS
Sec. 13581. Treatment of certain State health care programs.

CHAPTER 1—PROVISIONS RELATING TO PART A

Subchapter A—Elimination of Inflation Update for Services Provided Under Part A

SEC. 13401. INPATIENT HOSPITAL SERVICES AND HOSPICE CARE.

Section 1886(b)(3)(B)(iii) (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(1) by striking "(iii) For purposes of this subparagraph" and inserting "(iii)(I) Except as provided in subclause (II), for purposes of this subparagraph", and

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

"(II) For purposes of this subparagraph and section 1814(i)(1)(C)(ii), the 'market basket percentage increase', with respect to cost reporting periods and discharges occurring in fiscal year 1994 or 1995, is 0 percent.".

SEC. 13402. LIMITS ON PER DIEM ROUTINE SERVICE COSTS FOR EXTENDED CARE SERVICES.

The Secretary of Health and Human Services shall not provide for any increase, on the basis of inflation or changes in the cost of goods and services, in the limits on per diem routine service costs for extended care services under section 1888 of the Social Security Act for cost reporting periods beginning during fiscal year 1994 or fiscal year 1995.

Subchapter B—Other Provisions Relating to Part A

SEC. 13411. WAGE INDEX PROVISIONS.

(a) WAGE INDEX HOLD HARMLESS PROTECTION.—

(1) IN GENERAL.—Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)) is amended by adding at the end the following new clause:

"(iv) The application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (1) may not result in a reduction in an urban area's wage index if—

"(I) the urban area has a wage index below the wage index for rural areas in the State in which it is located; or

"(II) the urban area is located in a State that is composed of a single urban area.".

(2) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the fiscal year 1992 or fiscal year 1993 standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring—

(A) on or after October 1, 1991, in the case of hospitals located in an urban area described in section 1886(d)(8)(C)(iv)(I) of the Social Security Act (as added by paragraph (1)); and

(B) on or after the date of the enactment of this Act, in the case of hospitals located in an urban area described in section 1886(d)(8)(C)(iv)(II) of the Social Security Act (as added by paragraph (1)).

(b) UPDATING STANDARDS FOR TREATING RURAL COUNTIES AS URBAN COUNTIES BASED ON RATES OF COMMUTATION.—

(1) IN GENERAL.—Section 1886(d)(8)(B) (42 U.S.C. 1395ww(d)(8)(B)) is amended—

(A) by striking "standards" each place it appears and inserting "standards most recently used", and

(B) by striking "published in the Federal Register on January 3, 1980".

(2) HOLD HARMLESS FOR COUNTIES CURRENTLY TREATED AS URBAN.—Any hospital that is treated as being located in an urban metropolitan statistical area pursuant to section 1886(d)(8)(B) of the Social Security Act as of September 30, 1992, shall continue to be so treated notwithstanding the amendments made by paragraph (1).

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective on October 1, 1993.

(c) USE OF OCCUPATIONAL MIX IN GUIDELINES.—

(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting "(to the extent the Secretary determines appropriate)" after "taking into account".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1989.

SEC. 13412. TRANSITION FOR HOSPITAL OUTLIER THRESHOLDS.

Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(1) in clause (i), by striking "The Secretary" and inserting "For discharges occurring during fiscal years ending on or before September 30, 1997, the Secretary"; and

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

"(v) The Secretary shall provide that—

"(I) the day outlier percentage for fiscal year 1995 shall be 75 percent of the day outlier percentage for fiscal year 1994;

"(II) the day outlier percentage for fiscal year 1996 shall be 50 percent of the day outlier percentage for fiscal year 1994; and

"(III) the day outlier percentage for fiscal year 1997 shall be 25 percent of the day outlier percentage for fiscal year 1994.

"(vi) For purposes of this subparagraph, the term 'day outlier percentage' means, for a fiscal year, the percentage of the total additional payments made by the Secretary under this subparagraph for discharges in that fiscal year which are additional payments under clause (i).".

SEC. 13413. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1)) is amended by striking "7" and inserting "9".

(b) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located",

(II) by striking ", (ii)" and inserting "or (ii)",

(III) by striking "or (iii)" and all that follows through "section,", and

(IV) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i-4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(e) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect"; and

(B) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,".

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following:

"The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(f) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(g) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraphs (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1995".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13414. RURAL HEALTH TRANSITION GRANT PROGRAM EXTENSION.

Section 4005(e)(9) of OBRA-1987 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of fiscal years 1993 through 1997".

SEC. 13415. REGIONAL REFERRAL CENTER EXTENSION.

(a) EXTENSION OF CLASSIFICATION THROUGH FISCAL YEAR 1994.—Effective on the date of the enactment of this Act, section 6003(d) of such Act (42 U.S.C. 1395ww note) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT FOR HOSPITALS LOSING CLASSIFICATION.—

(1) IN GENERAL.—In the case of an affected regional referral center (as described in paragraph (2)), the Secretary of Health and Human Services shall make a lump sum payment to the center equal to the difference between the aggregate payment made to the center under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (3) and the aggregate payment that would have been made to the center under such section if, during the period of applicability, the center was classified a regional referral center under section 1886(d)(5)(C) of such Act.

(2) AFFECTED CENTERS DESCRIBED.—In paragraph (1), an "affected regional referral center" is a hospital classified as regional referral center under section 1886(d)(5)(C) of the Social Security Act as of September 30, 1992, that was not classified as such a center after such date but would have been so classified if the reference in section 6003(d) of OBRA-1989 to "October 1, 1992," had been deemed a reference to "October 1, 1994,".

(3) PERIOD OF APPLICABILITY.—In paragraph (1), the "period of applicability" is the period that begins on October 1, 1992, and ends on the date of the enactment of this Act.

SEC. 13416. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) EXTENSION OF ADDITIONAL PAYMENTS.—Effective on the date of the enactment of this Act, section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) in clause (i) in the matter preceding subclause (I)—

(A) by inserting "(or portion thereof)" after "cost reporting period", and

(B) by striking "March 31, 1993," and all that follows and inserting the following: "September 30, 1994, in the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be equal to the sum of the amount determined under clause (ii) and the amount determined under paragraph (1)(A)(iii).";

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(3) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is—

"(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii); and

"(II) for discharges occurring during any subsequent cost reporting period (or portion thereof), 50 percent of the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii).".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT.—

(1) IN GENERAL.—In the case of a hospital treated as a medicare dependent, small rural hospital under section 1886(d)(5)(G) of the Social Security Act, the Secretary of Health and Human Services shall make a lump sum payment to the hospital equal to the difference between the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2) and the aggregate payment that would have been made to the hospital under such section if, during the period of applicability, section 1886(d)(5)(G) of such Act had been applied as if—

(A) the reference in clause (i) to "March 31, 1993," had been deemed a reference to "September 30, 1994,"; and

(B) the amendments made by subsection (a) had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the "period of applicability" is, with respect to a hospital, the period that begins on the first day of the hospital's first 12-month cost reporting period that begins after April 1, 1992, and ends on the date of the enactment of this Act.

SEC. 13417. EXTENSION OF REGIONAL FLOOR.

Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "September 30, 1993" and inserting "September 30, 1996".

SEC. 13418. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA-1990 is amended by adding at the end the following new sentence: "The Secretary shall continue any such demonstration project until at least December 31, 1995.".

SEC. 13419. HEMOPHILIA PASS-THROUGH EXTENSION.

Effective as if included in the enactment of OBRA-1989, section 6011(d) of such Act is amended by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1994".

SEC. 13420. STATE HOSPITAL PAYMENT PROGRAMS.

In the case of a State hospital reimbursement system that meets the requirements of

section 1814(b)(3) of the Social Security Act, no other provision of law shall be construed as preventing the system from providing that payment for services covered under the system be made on the basis of rates provided for under the system.

SEC. 13421. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 13422. GRADUATE MEDICAL EDUCATION PAYMENTS IN HOSPITAL-OWNED COMMUNITY HEALTH CENTERS.

Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by inserting after "the hospital" the following: "or providing services at any entity receiving a grant under section 330 of the Public Health Service Act that is under the ownership or control of the hospital (if the hospital incurs all, or substantially all, of the costs of the services furnished to the hospital by such interns and residents)".

SEC. 13423. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any recoupment action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989, except to the extent that funds were obligated to the Uniformed Services Treatment Facilities program to fulfill such an action pursuant to title VI of the Department of Defense Appropriations Act, 1993.

(2) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) STUDY OF JOINT MEDICAL FACILITIES.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall conduct a study of the feasibility and desirability of establishing joint medical facilities among the Department of Defense, the Department of Veterans' Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facilities.

(2) REPORT.—Not later than October 1, 1993, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under paragraph (1).

SEC. 13424. EPILEPSY DRG.

(a) IN GENERAL.—The Secretary of Health and Human Services shall review the diagnosis-related groups established pursuant to section 1886(d)(4) of the Social Security Act that are assigned to discharges of patients with intractable epilepsy, including patients whose admissions involve intensive neurodiagnostic monitoring, and shall revise, for discharges occurring on or after October 1, 1994, the assignment of discharges to such groups as the Secretary considers appropriate to account for the resource requirements of such patients.

(b) CONSULTATION REQUIREMENTS.—In carrying out subsection (a), the Secretary shall consult with the Prospective Payment Assessment Commission and national organizations representing individuals with epilepsy or individuals and entities providing specialized medical services to such individuals related to the treatment of epilepsy.

SEC. 13425. SKILLED NURSING FACILITY WAGE INDEX.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) PROPAC REPORT.—The Prospective Payment Assessment Commission shall, by March 1, 1994, study and report to the Congress on the impact of applying routine per diem cost limits for skilled nursing facilities on a regional basis.

SEC. 13426. HOSPICE NOTIFICATION TO BENEFICIARIES.

(a) HOSPITALS.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(b) NURSING FACILITIES.—Section 1819(c)(1)(B) (42 U.S.C. 1395i-3(c)(1)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by inserting after clause (iii) the following new clause:

"(iv) inform each resident who is entitled to benefits under this title, orally and in writing at the time of admission to the facility, of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the facility to refer patients to hospice programs located outside such geographic area).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 13427. REDUCTION IN PART A PREMIUM FOR CERTAIN INDIVIDUALS WITH 30 OR MORE QUARTERS OF SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Section 1818(d) (42 U.S.C. 1395i-2(d)) is amended—

(1) in the second sentence of paragraph (2), by striking "Such amount" and inserting "Subject to paragraph (4), the amount of an individual's monthly premium under this section"; and

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

"(4)(A) In the case of an individual described in subparagraph (B), the monthly premium for a month shall be reduced by the applicable reduction percent specified in the following table:

"For a month in:	The applicable reduction percent is:
1994	25
1995	30
1996	35
1997	40
1998 or subsequent year	45

"(B) An individual described in this subparagraph with respect to a month is an individual who establishes to the satisfaction of the Secretary that, as of the last day of the previous month, the individual—

"(i) had at least 30 quarters of coverage under title II;

"(ii) was married (and had been married for the previous 1 year period) to an individual who had at least 30 quarters of coverage under such title;

"(iii) had been married to an individual for a period of at least 1 year (at the time of the individual's death) if at such time the individual had at least 30 quarters of coverage under such title; and

"(iv) is divorced from an individual and had been married to the individual for a period of at least 10 years (at the time of the divorce) if at such time the individual had at least 30 quarters of coverage under such title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to monthly premiums under section 1818 of the Social Security Act for months beginning with January 1, 1994.

SEC. 13428. PERIODIC UPDATES TO SALARY EQUIVALENCY GUIDELINES FOR PHYSICAL THERAPY AND RESPIRATORY THERAPY SERVICES.

(a) IN GENERAL.—Section 1861(v)(5) (42 U.S.C. 1395x(v)(5)) is amended by adding at the end the following new subparagraph:

"(C) Using the most recent available data, the Secretary shall update, not less often than every 3 years, the salary equivalency guidelines used under subparagraph (A) with respect to physical therapy and respiratory therapy services.".

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first update the salary equivalency guidelines, under the amendment made by subsection (a), by not later than December 31, 1993. Such updated guidelines shall apply to cost reporting periods beginning on or after July 1, 1993.

SEC. 13429. EXTENSION OF DEADLINE FOR APPLICATION FOR GEOGRAPHIC CLASSIFICATION FOR CERTAIN RECLASSIFIED HOSPITALS.

Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board requesting a change in geographic classification for fiscal year 1994 after the first day of fiscal year 1993 if—

(1) the hospital's geographic classification for fiscal year 1994 was changed from urban to rural as a result of the issuance of the Revised Statistical Definitions for Metropolitan Areas established by the Office of Management and Budget on December 28, 1992 (pursuant to OMB Bulletin No. 93-05); and

(2) the hospital submits the application not later than 60 days after the date of the enactment of this Act.

SEC. 13430. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is further amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

(b) TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.—

Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i–3(b)(3)(C)(i)(I)) is amended by striking "not later than" before "14 days".

(c) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "1990,." and inserting "1990.".

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking "such agency" and inserting "such agency's".

(3) Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking ", the sum of" and inserting "is equal to the sum of".

CHAPTER 2—PROVISIONS RELATING TO PART B

Subchapter A—Elimination of Inflation Update

SEC. 13431. ELIMINATION OF INFLATION UPDATE FOR PHYSICIAN AND RELATED PROFESSIONAL SERVICES.

(a) NO INCREASE IN INDEX.—Section 1848(d)(3)(A) (42 U.S.C. 1395w–4(d)(3)(A)) is amended—

(1) in clause (i), by striking "clause (iii)" and inserting "clauses (iii) and (iv)", and

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

"(iv) NO INCREASE IN INDEX FOR 1994 OR 1995.—In applying clause (i) for services furnished on or after January 1, 1994, the percentage increase in the appropriate update index for each of 1994 and 1995 shall be 0 percent.".

(b) NO INCREASE IN MEI FOR 1994 AND 1995.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(vi) For purposes of this part for items and services furnished in 1994 or 1995, the percentage increase in the MEI is 0 percent.".

SEC. 13432. ELIMINATION OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN ITEMS AND SERVICES.

(a) CLINICAL LABORATORY SERVICES.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking "and" at the end of subclause (II),

(2) by striking the period at the end of subclause (III) and inserting ", and", and

(3) by adding at the end the following new subclause:

"(IV) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1994 and 1995 shall be 0 percent.".

(b) DURABLE MEDICAL EQUIPMENT.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), as amended by 13469(a), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "a subsequent year" and inserting "1993", and

(B) by striking "June of the previous year." and inserting "June 1992,"; and

(3) by adding at the end the following new subparagraphs:

"(C) for 1994 and 1995, no percentage change, and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(c) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (i), by striking "and";

(2) in clause (ii), by striking "a subsequent year" and inserting "1992 and 1993"; and

(3) by adding at the end the following new clauses:

"(iii) for 1994 and 1995, 0 percent, and

"(iv) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

(d) REASONABLE CHARGE LIMITS FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act during 1994 and 1995, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 13433. AMBULATORY SURGICAL CENTER SERVICES.

(a) ELIMINATION OF INFLATION UPDATE.—The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal year 1994 or for fiscal year 1995.

(b) CONFORMING AMENDMENT.—Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)), as added by section 13453(a)(2)(B), is amended by striking "fiscal year 1995" and inserting "fiscal year 1996".

SEC. 13434. OTHER ITEMS AND SERVICES UNDER PART B.

(a) RURAL HEALTH CLINIC SERVICES; FEDERALLY-QUALIFIED HEALTH CENTER SERVICES; COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—In determining the amount of payment made for rural health clinic services, Federally qualified health center services, or comprehensive outpatient rehabilitation facility services furnished under part B of title XVIII of the Social Security Act for services furnished on or after January 1, 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the applicable limits used to determine the costs which are reasonable and related to the cost of furnishing such services under section 1833(a)(3) of such Act, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

(b) DIALYSIS SERVICES.—In determining the amount of payment made for dialysis services furnished under part B of title XVIII of the Social Security Act on or after January 1, 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the payment amounts determined under section 1881(b)(2)(B) of such Act or the rates determined under section 1881(b)(7) of such Act, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

(c) OTHER PART B ITEMS AND SERVICES.—In determining the amount of payment made for an item or service furnished under part B of title XVIII of the Social Security Act on or after January 1, 1994, other than an item or service to which a preceding provision of (or amendment made by) this subchapter applies, the Secretary of Health and Human Services shall provide that any inflation update in the fee schedule amount for the item or service established under such part B of such title, or (if applicable) any applicable limit used to determine the actual charge, reasonable charge, or reasonable cost for the item or service under such part, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

Subchapter B—Physicians' Services

SEC. 13441. REINSTATING SEPARATE PAYMENT FOR THE INTERPRETATION OF ELECTROCARDIOGRAMS (EKGS).

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w–4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.".

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

"(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 13441(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(i)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 13441(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1993 that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting "and as adjusted under subsection (c)(2)(E)(ii)" after "for 1993";

(2) in subsection (c)(2)(A)(i), by adding at the end the following: "Such relative values are subject to adjustment under subparagraph (E)(i).."; and

(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(E),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 13442. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w–4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1993 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments

made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1993 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(i)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4), as amended by section 13441(c), is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting "and section 13442(b) of the Omnibus Budget Reconciliation Act of 1993" after "(c)(2)(E)(ii)" after "for 1993";

(2) in subsection (c)(2)(A)(i), by inserting "and section 13442(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subparagraph (E)(i)"; and

(3) in subsection (i)(1)(B), by inserting "and section 13442(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subsection (c)(2)(E)".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13443. RETAINING PAYMENT FOR ACTUAL ANESTHESIA TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w–4(b)(2)(B)) is amended by adding at the end the following: "The Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: "The Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take apply to services furnished on or after the date of the enactment of this Act.

SEC. 13444. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by striking "shall review" and inserting "shall, in consultation with appropriate representatives of physicians, review".

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) DEADLINE FOR INITIAL REVIEW AND REVISION.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995. Not later than April 1, 1994, the Secretary shall study and report to report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the construction of the geographic cost of practice index under section 1848(e)(1)(A)(i) of such Act.

(d) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

(e) DEVELOPMENT OF CRITERIA FOR USE IN DETERMINING PAYMENT LOCALITIES.—The Physician Payment Review Commission shall conduct a study to develop criteria that would be used to refine the fee schedule areas that are used within States, in applying geographic adjustment factors for computing payment amounts, under section 1848 of the Social Security Act. The Commission shall include a report on such study in its recommendations submitted to the Congress under section 1845(b) of such Act in 1994.

SEC. 13445. EXTRA-BILLING.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w–4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).".

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking ", and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(b) PRE-PAYMENT SCREENING OF CLAIMS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) in subparagraph (C), by striking "shall include" and by striking the period at the end and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).".

(2) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting "the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and" after "report to the Congress".

(d) APPLYING THE LIMITING CHARGE TO NONPHYSICIAN SERVICES PROVIDED UNDER THE PHYSICIAN FEE SCHEDULE.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) in subsection (a)(3), by inserting "AND SUPPLIERS" after "PHYSICIANS", and by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician" and by adding at the end the following: "In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.";

(2) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting "(including services which the Secretary excludes pursuant to subsection (j)(3))" after "a physician's service";

(3) in subsection (g)(2)(D), by inserting "(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)" after "subsection (a)";

(4) in subsection (g)(3)(B)—

(A) by inserting after the first sentence the following: "No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.", and

(B) in the last sentence, by striking "previous sentence" and inserting "first sentence";

(5) in subsection (h)—

(A) by inserting "or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))" after "physician" the first place it appears,

(B) by inserting ", supplier, or other person" after "physician" the second place it appears, and

(C) by inserting ", suppliers, and other persons" after "physicians" the second place it appears; and

(6) in subsection (j)(3), by inserting ", except for purposes of subsections (a)(3), (g), and (h)" after "tests and".

(e) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 13449(e), is amended by adding at the end the following new paragraph:

"(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

"(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of section 1842(j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 13951) is amended—

(i) in subsection (1)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(f) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 13951) is amended—

(1) in subsection (a)(1), as amended by section 13479(e)(2)—

(A) by striking "and" before "(O)", and

(B) by inserting before the semicolon at the end the following: ", and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)"; and

(2) in subsection (h)(5)(D)—

(A) by striking "paragraphs (2) and (3)" and by inserting "paragraph (2)", and

(B) by adding at the end the following: "Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.".

(g) EFFECTIVE DATES.—

(1) ENFORCEMENT AND UNIFORM APPLICATION; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a), (d), and (f) shall apply to services furnished on or after the date of the enactment of this Act; except that such amendments made by subsections (a) and (d) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) CARRIER DETERMINATIONS.—The amendments made by subsection (b) shall apply to contracts as of January 1, 1994.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) REPORT.—The amendment made by subsection (c)(2) shall apply to reports for years beginning with 1994.

(5) PRACTITIONERS.—The amendments made by subsection (e) shall apply to services furnished on or after January 1, 1994.

SEC. 13446. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1994, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians.

(2) REPORT.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 13447. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1995.

SEC. 13448. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 13449(f), is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is

unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 13449. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA–1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA–1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services.".

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA–1990).—(1) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA–1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) RECIPROCAL BILLING ARRANGEMENTS (SECTION 4110 OF OBRA–1990).—Section 1842(b)(6)(D) (42 U.S.C. 1395u(b)(6)(D)) is amended—

(1) by striking "visit services (including emergency visits and related services)" and inserting "physicians' services (and services furnished incident to such services)";

(2) by striking "on an occasional, reciprocal basis" and inserting "under an arrangement that is informal and reciprocal or involves per diem or other fee-for-time compensation for services";

(3) by striking "visit" in subclauses (i), (ii), and (iv); and

(4) in subclause (iii), by striking "the claim" and all that follows through the comma at the end and inserting "the claim meets the requirements of this clause for payment to the first physician".

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(h) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(i) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)) is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(i) by striking "apply to" and inserting "would otherwise apply to", and

(ii) by inserting before the period at the end "but for the application of section 1848(i)(3)".

(j) EFFECTIVE DATE.—The amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter C—Ambulatory Surgical Center Services

SEC. 13451. DESIGNATION OF CERTAIN HOSPITALS AS EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in subparagraph (B)(ii)—

(A) by striking "the last sentence of this clause" and inserting "paragraph (4)", and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In the case of a hospital that—

"(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

"(ii) receives more than 30 percent of its total revenues from outpatient services, and

"(iii) on October 1, 1987—

"(I) was an eye specialty hospital or an eye and ear specialty hospital, or

"(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (2)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

"(B) For purposes of this subparagraph (A)(iii)(II), the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1994.

SEC. 13452. TREATMENT OF INTRAOCULAR LENSES.

(a) EXTENSION OF CAP ON PAYMENTS THROUGH 1994.—

(1) IN GENERAL.—Section 4151(c)(3) of OBRA-1990 is amended by striking "December 31, 1992" and inserting "December 31, 1994".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) this subsection shall be effective as if included in the enactment of OBRA-1990.

(b) STUDY OF COSTS OF INTRAOCULAR LENSES.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study, based on recent data, of the acquisition costs to providers of intraocular lenses provided to individuals enrolled under part B of the medicare program and shall include in the study an analysis of the impact of the availability of new technology lenses on such costs.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and shall include in the report any recommendations the Secretary considers appropriate regarding the determination of payment amounts for intraocular lenses under part B of the medicare program.

SEC. 13453. TECHNICAL AMENDMENTS.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

(1) USE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1994, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(2) AUTOMATIC APPLICATION OF INFLATION ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(B) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1995), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(3) CONSULTATION REQUIREMENT.—The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—

(1) ESTABLISHMENT OF PROCESS FOR REVIEW OF AMOUNTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) FACTORS CONSIDERED.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) NOTICE AND COMMENT.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) TECHNICAL CORRECTION RELATING TO BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA-1990.

(d) TECHNICAL CORRECTION RELATED TO CATARACT SURGERY.—Effective as if included in the enactment of OBRA-1990, section 4151(c)(3) of such Act is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

Subchapter D—Durable Medical Equipment

SEC. 13461. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

"(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after October 1, 1993, for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

"(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

"(i) for medical equipment and supplies furnished on or after October 1, 1993, and on or before December 31, 1994, the supplier meets standards prescribed by the Secretary; and

"(ii) for medical equipment and supplies furnished on or after January 1, 1995, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

"(I) comply with all applicable State and Federal licensure and regulatory requirements;

"(II) maintain a physical facility on an appropriate site;

"(III) have proof of appropriate liability insurance; and

"(IV) meet such other requirements as the Secretary may specify.

"(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN'S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished as an incident to a physician's service.

"(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

"(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

"(2) CERTIFICATES OF MEDICAL NECESSITY.—

"(A) STANDARDIZED CERTIFICATES.—Not later than October 1, 1993, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

"(B) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), a supplier of medical equipment and supplies may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity on or after October 1, 1993.

"(ii) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Clause (i) shall not apply with respect to a certificate of medical necessity for any item that is not contained on the list of potentially overused items developed by the Secretary under subsection (a)(15)(A) to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary. In the event a supplier provides a certificate of medical necessity containing information permitted under this clause, such certificate shall also contain the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(C) DEFINITION.—For purposes of this paragraph, the term 'certificate of medical necessity' means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(3) COVERAGE AND REVIEW CRITERIA.—

"(A) DEVELOPMENT AND ESTABLISHMENT.—Not later than January 1, 1995, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies, individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(B) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

"(i) the item is frequently purchased or rented by beneficiaries;

"(ii) the item is frequently subject to a determination that such item is not medically necessary; or

"(iii) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) DEFINITION.—The term 'medical equipment and supplies" means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraphs (1) and (3)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).".

(2) CONFORMING AMENDMENT.—Effective October 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than July 1, 1995, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under section 1834(i)(3)(A) of the Social Security Act (as added by subsection (a)) on the utilization of items of medical equipment and supplies by individuals enrolled under part B of the medicare program.

(c) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than May 1, 1994, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(d) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than July 1, 1994, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

SEC. 13462. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate regional carrier (as designated by the Secretary).

"(ii) For purposes of clause (i), the term 'appropriate regional carrier' means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after October 1, 1993.

(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 13463. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered item the supplier has already furnished to the individual) unless—

"(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

"(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled

under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 13464. ANTI-KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting before the semicolon "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after the first day of the first month that begins after the expiration of the 60-day period beginning on the date of the enactment of this Act.

SEC. 13465. LIMITATIONS ON BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) IN GENERAL.—Section 1834(i) (42 U.S.C. 1395m(i)), as added by section 13461(a)(1), is amended—

(1) by redesignating paragraph (4) as paragraph (5), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

"(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

"(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as amended by section 13464(a), is amended by striking "1834(i)(4)" and inserting "1834(i)(5)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items or services furnished on or after October 1, 1993.

SEC. 13466. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 13467. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

"(iii) which is an accessory used in conjunction with a nebulizer or aspirator,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 13468. PAYMENT FOR OSTOMY SUPPLIES AND OTHER SUPPLIES.

(a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, AND UROLOGICALS.—

(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(2) CONFORMING AMENDMENT.—Section 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is amended by striking "subparagraph (C)," and inserting "subparagraphs (C) and (E),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(b) SURGICAL DRESSINGS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 13461(a), is amended by adding at the end the following new subsection:

"(j) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(2) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 13478(e)(2) and 13445(e)(1), is amended—

(A) by striking "and" before "(P)", and

(B) by inserting before the semicolon at the end the following: ", and (Q) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j);".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(c) REDUCTION IN PAYMENTS FOR TENS DEVICES.—

(1) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking "15 percent" the second place it appears and inserting "45 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after January 1, 1994.

SEC. 13469. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the

12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—

(1) IN GENERAL.—Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) ADVANCE DETERMINATION BY CARRIERS.—Effective January 1, 1994, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) INCLUSION IN CARRIER PERFORMANCE EVALUATIONS.—Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 13448(a), is amended by adding at the end the following new paragraph:

"(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) APPLICATION TO PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administration of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

Subchapter E—Other Provisions

SEC. 13471. CLARIFYING PAYMENTS FOR MEDICALLY DIRECTED CERTIFIED REGISTERED NURSE ANESTHETIST SERVICES.

(a) IN GENERAL.—Section 1833(l)(4)(B) (42 U.S.C. 13951(l)(4)(B)) is amended to read as follows:

"(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished by a certified registered nurse anesthetist who is medically directed—

"(i) in a year after 1993 and before 1997, shall be $10.75, or

"(ii) in a subsequent calendar year, shall be the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13472. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of OBRA–1986, as amended by section 4164(a)(2) of OBRA–1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f), —

(A) by striking "$55,000,000" and inserting "$58,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

SEC. 13473. ORAL CANCER DRUGS.

(a) NEW COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 13478(f)(8)(B), is amended—

(1) by striking "and" at the end of subparagraph (N);

(2) by adding "and" at the end of subparagraph (O); and

(3) by adding at the end the following new subparagraph:

"(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;".

(b) UNIFORM COVERAGE OF "OFF-LABEL" ANTICANCER DRUGS.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) For purposes of paragraph (1), the term 'drugs' also includes any drugs or biologicals used in an anticancer chemotherapeutic regimen for a medically accepted indication (as described in subparagraph (B)).

"(B) In subparagraph (A), the term 'medically accepted indication', with respect to the use of a drug, includes any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

"(i) the drug has been approved by the Food and Drug Administration, and

"(ii) the carrier involved determines, based upon guidance provided by the Secretary to carriers for determining medically accepted

uses of drugs, that the use is medically accepted taking into account the uses of such drug which are—

"(I) included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopoeia-Drug Information; or

"(II) supported by clinical evidence in peer reviewed medical literature appearing in publications which have been specifically approved for purposes of this paragraph by the Secretary.".

(c) STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering under the medicare program the patient care costs for beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an institutional review board. The study shall include—

(A) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(B) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(C) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(D) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished on or after January 1, 1994.

SEC. 13474. PART B PREMIUM PAYMENTS FOR LATE ENROLLMENT.

(a) LIMITATION ON MEDICARE PART B LATE ENROLLMENT PENALTY.—

(1) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) The percent increase in premiums under subsection (b) due to late enrollment under this part shall not exceed 25 percent in the case of an individual who is an annuitant described in subparagraph (A) or (B) of section 8901(3) of title 5, United States Code (including an individual or survivor described in section 8906(g)(2)(A) of such title) for a month if—

"(1) during the individual's initial enrollment period under section 1837(d)—

"(A) the individual was enrolled in a group health plan (as defined in section 1862(b)(1)(A)(v)) that provided coverage of items and services for which payment may be made under this part, and

"(B) the individual elected not to enroll (or to be deemed enrolled) under this section; and

"(2) due to a change of coverage under such plan, there is no coverage during the month under such plan with respect to items and services for which payment may be made under this part unless the individual is enrolled under this part.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 1992.

(b) PAYMENT OF PART B PREMIUM LATE ENROLLMENT PENALTIES BY STATES.—Section 1839 (42 U.S.C. 1395r), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(h)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

"(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

"(3) In this subsection:

"(A) The term 'eligible individual' means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

"(B) The term 'part B late enrollment premium increase' means any increase in a premium as a result of the application of subsection (b).".

SEC. 13475. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 13478(f)(8)(E), is amended by inserting after subsection (kk) the following new subsection:

"Speech-Language Pathology Services; Audiology Services

"(ll)(1) The term 'speech-language pathology services' means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

"(2) The term 'audiology services' means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law).

"(3) In this subsection:

"(A) The term 'qualified speech-language pathologist' means an individual with a master's or doctoral degree in speech-language pathology who has performed not less than 9 months of supervised full-time speech-language pathology services after obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of speech-language pathologists, has successfully completed a national clinical competency examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who has performed not less than 9 months of supervised full-time audiology services after obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as an audiologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of audiologists, has successfully completed a national clinical competency examination in audiology approved by the Secretary.".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) HOSPICE CARE.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking "therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 13476. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking "December 31, 1993" and inserting "December 31, 1997", and

(2) in the second sentence, by inserting after "beneficiary costs," the following: "costs to the medicaid program and other payers, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,".

SEC. 13477. TREATMENT OF CERTAIN INDIAN HEALTH PROGRAMS AND FACILITIES AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C. 1395x(aa)(4)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13478. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by inserting "and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992" after "1989"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA–1990).—Section 1833(l)(4)(B)(ii)(VII) (42 U.S.C. 1395l(l)(4)(B)(ii)(VII)) is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(kk))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by

striking "(jj) The term" and inserting "(kk) The term".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA-1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a-3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

Subchapter F—Part B Premium

SEC. 13481. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by inserting "and for each month in 1996 and 1997" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1998".

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—Elimination of Updates

SEC. 13501. ELIMINATION OF COST-OF-LIVING UPDATE IN PER RESIDENT AMOUNTS FOR DIRECT MEDICAL EDUCATION.

Section 1886(h)(2)(D) (42 U.S.C. 1395ww(h)(2)(D)) is amended by inserting "(other than in the case of cost reporting periods beginning during fiscal year 1994 or fiscal year 1995)" after "updated".

SEC. 13502. ELIMINATION OF INFLATION UPDATE IN COST LIMITS FOR HOME HEALTH SERVICES.

The Secretary of Health and Human Services shall not provide for any increase, on the basis of inflation or changes in the cost of goods and services, in the per visit cost limits for home health services under section 1861(v)(1)(L) of the Social Security Act for cost reporting periods beginning during fiscal year 1994 or fiscal year 1995.

Subchapter B—Medicare Secondary Payer Provisions

SEC. 13511. EXTENSION OF TRANSFER OF DATA.

(a) EXTENSION OF DATA MATCH PROGRAM.—

(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1995" and inserting "1998".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "1995" and inserting "1998",

(B) in clause (ii)(I), by striking "1994" and inserting "1997", and

(C) in clause (ii)(II), by striking "1995" and inserting "1998".

(b) SECONDARY PAYER EXEMPTION FOR MEMBERS OF RELIGIOUS ORDERS.—Effective as if included in the enactment of OBRA-1989, section 6202(e)(2) of such Act is amended by adding at the end the following: "Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date.".

(c) PERMITTING THE USE OF MINIMUM INCOME THRESHOLDS.—

(1) Section 6103(l)(12)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "section 3401(a))".

(2) The matter in section 6103(l)(12)(B)(ii) of such Code preceding subclause (I) is amended by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "wages".

(3) The heading to section 6103(l)(12) of such Code is amended by striking "TAXPAYER IDENTITY" and inserting "RETURN".

SEC. 13512. 3-YEAR EXTENSION OF MEDICARE SECONDARY PAYER TO DISABLED BENEFICIARIES.

Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "1995" and inserting "1998".

SEC. 13513. 3-YEAR EXTENSION OF 18-MONTH RULE FOR ESRD BENEFICIARIES.

Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended by striking "1996" and inserting "1999".

SEC. 13514. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than November 1, 1993, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(i) by striking "and" at the end of subparagraph (H); and

(ii) by inserting after subparagraph (H) the following new subparagraph:

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))".

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to pay-

ments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(c) APPLICATION OF AGGREGATION RULES.—

(1) WORKING AGED.—Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended by adding at the end the following new clause:

"(vi) APPLICATION OF AGGREGATION RULES.—All employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subparagraph.".

(2) DISABLED INDIVIDUALS.—Section 5000(b)(2) of the Internal Revenue Code of 1986 (relating to large group health plans) is amended by adding at the end the following: "All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this paragraph.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

(d) APPLICATION OF EXCISE TAX TO FAILURE TO REIMBURSE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Section 5000(c) of the Internal Revenue Code of 1986 (relating to nonconforming group health plans) is amended by striking "of section 1862(b)(1)" and inserting "of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to demands for repayment issued after the date of the enactment of this Act.

(e) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended—

(A) by striking "on or before" and inserting "before", and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Effective as if included in the enactment of OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(l)(12)(D)(iii)" and inserting "6103(l)(12)(E)(iii)".

(4) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(5) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(6) Except as provided in paragraphs (2) and (3), the amendments made by this subsection shall be effective as if included in the enactment of OBRA–1990.

Subchapter C—Physician Ownership and Referral

SEC. 13521. APPLICATION OF MEDICARE BAN ON SELF-REFERRALS TO ALL PAYERS.

(a) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking "for which payment otherwise may be made under this title" and inserting "for which a charge is imposed", and

(B) in paragraph (1)(B), by striking "under this title";

(2) by amending paragraph (1) of subsection (g) to read as follows:

"(1) DENIAL OF PAYMENT.—No payment may be made under this title, under another Federal health care program, or under a State health care program (as defined in section 1128(h)) for a designated health service for which a claim is presented in violation of subsection (a)(1)(B). No individual, third party payer, or other entity is liable for payment for designated health services for which a claim is presented in violation of such subsection."; and

(3) in subsection (g)(3), by striking "for which payment may not be made under paragraph (1)" and inserting "for which such a claim may not be presented under subsection (a)(1)".

(b) CONFORMING AMENDMENT TO REPORTING REQUIREMENT.—Section 1877(f) (42 U.S.C. 1395nn(f)) is amended—

(1) by striking "for which payment may be made under this title" each place it appears and inserting "for which a charge is imposed", and

(2) by striking the third sentence.

SEC. 13522. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES.

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking "clinical laboratory service", "clinical laboratory services", and "CLINICAL LABORATORY SERVICES" and inserting "designated health service", "designated health services", and "DESIGNATED HEALTH SERVICES", respectively, each place each appears in subsections (a)(1), (b)(2)(A)(ii), (b)(4), (d)(1), (d)(2), (d)(3), (f), (g)(1), and (h)(7)(B); and

(2) by adding at the end the following new subsection:

"(i) DESIGNATED HEALTH SERVICES DEFINED.—In this section, the term 'designated health services' means any of the following items or services:

"(1) clinical laboratory services;

"(2) physical and occupational therapy services;

"(3) radiology services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services;

"(4) radiation therapy services;

"(5) durable medical equipment;

"(6) parenteral and enteral nutrition equipment and supplies;

"(7) prosthetic devices and orthotics and prosthetics;

"(8) outpatient prescription drugs;

"(9) home infusion therapy services, home dialysis, and home health services;

"(10) ambulance services;

"(11) inpatient and outpatient hospital services;

"(12) comprehensive outpatient rehabilitation facility services;

"(13) contact lenses and eyeglasses; and

"(14) hearing aids.".

SEC. 13523. EXCEPTIONS FOR BOTH OWNERSHIP AND COMPENSATION ARRANGEMENTS.

(a) MODIFICATION TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended—

(1) by inserting "(other than durable medical equipment, parenteral and enteral nutrition equipment and supplies, and ambulance services)" after "services" the first place it appears, and

(2) in subparagraph (A)(ii)(II), by striking "centralized provision" and inserting "provision of some or all".

(b) MODIFICATION OF RURAL PROVIDER EXCEPTION.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by redesignating paragraph (5) as paragraph (6), and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) RURAL PROVIDERS.—In the case of designated health services if—

"(A) the entity furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

"(B) substantially all of the services (as defined by the Secretary) furnished by the entity are furnished to individuals who reside in such a rural area.".

(2) CONFORMING AMENDMENTS.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

SEC. 13524. EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT.

(a) PUBLICLY-TRADED SECURITIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(c)(2)) is amended by striking "total assets" and inserting "stockholder equity".

(b) RURAL PROVIDERS.—For amendment to exception relation to rural providers, see section 13523(b).

SEC. 13525. EXCEPTIONS RELATED ONLY TO COMPENSATION ARRANGEMENTS.

(a) RENTAL OF OFFICE SPACE AND EQUIPMENT.—

(1) IN GENERAL.—Paragraph (1) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

"(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

"(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the aggregate space rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease for at least one year,

"(iv) the aggregate rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the premises leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease of at least one year,

"(iv) the aggregate rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) CONFORMING AMENDMENT.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by striking paragraphs (5) and (6).

(b) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended—

(1) in paragraph (2)—

(A) by striking "EMPLOYMENT" and all that follows through "if" and inserting "BONA FIDE EMPLOYMENT RELATIONSHIPS.—Any amount paid by an employer to a physician (or immediate family member) who has a bona fide employment relationship with the employer for the provision of services if";

(B) in subparagraphs (A), (B), and (D), by striking "arrangement" and inserting "employment";

(C) in subparagraph (C), by striking "to the hospital"; and

(D) by adding at the end the following: "Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of shares of overall profits or in the form of a productivity bonus based on services performed personally by the physician or family member, if the amount of the remuneration is not determined in a manner that takes into account directly the volume or value of any referrals by the referring physician."; and

(2) in paragraph (5)(A), by striking "in the same manner as they apply to a hospital".

(c) PERSONAL SERVICE ARRANGEMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

"(3) PERSONAL SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

"(A) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

"(B) the arrangement covers all of the services to be provided by the physician (or family member) to the entity,

"(C) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

"(D) the term of the arrangement is for at least one year,

"(E) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account directly or indirectly the volume or value of any referrals or other business generated between the parties,

"(F) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any State or Federal law, and

"(G) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) HEALTH SERVICES FURNISHED UNDER CERTAIN HOSPITAL ARRANGEMENTS.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN GROUP PRACTICE ARRANGEMENTS WITH A HOSPITAL.—

"(A) IN GENERAL.—An arrangement between a hospital and a group for the provision of designated health services by the group but billed in the name of the hospital if—

"(i) the group would be a group practice, but for the fact that it bills for such services in the name of the hospital;

"(ii) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

"(iii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

"(iv) the group provides substantially all of the designated health services furnished under the arrangement to the hospital's patients;

"(v) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement;

"(vi) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

"(vii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(viii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(d) PHYSICIAN RECRUITMENT.—Section 1877(e)(4) (42 U.S.C. 1395nn(e)(4)) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the remuneration arrangement is set out in writing, signed by the parties, and specifies the benefits provided by the hospital, the terms under which the benefits are to be provided, and the obligations of the parties,".

(e) ISOLATED TRANSACTIONS.—Section 1877(e)(5) (42 U.S.C. 1395nn(e)(5)) is amended—

(1) by striking "ISOLATED" and inserting "ONE-TIME",

(2) by striking "isolated" and inserting "one-time", and

(3) by inserting "or practice" after "one-time sale of property".

(f) NEW EXCEPTION FOR PAYMENTS BY PHYSICIAN.—Section 1877(e) (42 U.S.C. 1395nn(e)), as amended by subsection (c)(2), is further amended by adding at the end the following new paragraph:

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory services, or

"(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value.".

SEC. 13526. CLARIFICATION CONCERNING CIVIL MONEY PENALTY SANCTIONS.

Section 1877(g)(3) (42 U.S.C. 1395nn(g)(3)) is amended by inserting "(including a referring physician)" after "Any person".

SEC. 13527. REQUIREMENTS FOR GROUP PRACTICE.

(a) ADDITIONAL REQUIREMENTS.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (vii), respectively;

(3) by inserting "(A)" after ".—";

(4) by inserting after clause (iii), as so redesignated, the following:

"(iv) subject to subparagraph (B), no physician who is a member of the group receives compensation based on the volume or value of referrals by the physician;

"(v) there are no less than, on average, 5 physicians for each office location (as defined in subparagraph (C)), except where there is only a single office location for the entire group practice;

"(vi) members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and"; and

(5) by adding at the end the following new subparagraphs:

"(B) A physician in a group practice may be paid a share of overall profits of the group or a productivity bonus (based on services personally performed or personally supervised by the physician or by another physician in the group) so long as the share or bonus is not determined in any manner which is directly related to the volume or value of referrals by that physician.

"(C)(i) Except as provided in clauses (ii) through (iv), the term 'office location' means an office where physician services are offered to patients.

"(ii) Such term does not include a location consisting solely of a diagnostic facility, nursing facility, or treatment facility (such as a physical or occupational therapy center), or administrative services affiliated with the group practice.

"(iii) Any office location which is located immediately adjacent to another office location shall be treated as the same office location.

"(iv) The term 'office location' does not include an office located in a rural area (as defined in section 1886(d)(2)(D)) if at least 85 percent of the physician services at the location are provided to individuals who reside in such a rural area.".

(b) USE OF BILLING NUMBERS, ETC.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (b)(2)(B), by inserting "under a billing number assigned to the group practice" after "member",

(2) in subsection (h)(4)(A)(ii), as redesignated by subsection (a)(2), by inserting "and under a billing number assigned to the group" after "in the name of the group", and

(3) in subsection (h)(4)(A)(iii), as redesignated by subsection (a)(2), by striking "by members of the group".

(c) TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.—The last sentence of section 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as redesignated by subsection (a)(2), is amended by inserting ", institution of higher education, or medical school" after "hospital".

SEC. 13528. NO FEDERAL PREEMPTION OF MORE RESTRICTIVE STATE LAWS.

Section 1877 (42 U.S.C. 1395nn), as amended by section 13522(2), is amended by adding at the end the following new subsection:

"(j) NO FEDERAL PREEMPTION OF MORE RESTRICTIVE STATE LAWS.—Nothing in this section shall preempt provisions of State law—

"(1) that relate to referrals not covered by this section, or

"(2) that relate to referrals covered by this section and are more restrictive with respect to such referrals than the provisions of this section.".

SEC. 13529. MISCELLANEOUS PROVISIONS.

(a) INDIRECT FINANCIAL RELATIONSHIPS.—The last sentence of section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by inserting before the period the following: "and includes an interest in an entity that holds an ownership or investment in another entity".

(b) MINOR REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) in subparagraph (A), by inserting before the period at the end the following: "(other than an arrangement involving only remuneration described in subparagraph (C))", and

(2) by adding at the end the following new subparagraph:

"(C) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

"(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.

"(ii) The provision of items, devices, or supplies that are used solely to—

"(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

"(II) communicate the results of tests or procedures for such entity.".

(c) REFERRING PHYSICIAN.—Section 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is amended—

(1) by inserting "a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," after "examination services,", and

(2) by inserting ", radiologist, or radiation oncologist" after "pathologist" the second place it appears.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is further amended—

(1) in the next to last sentence of subsection (f)—

(A) by striking "provided" and inserting "furnished", and

(B) by striking "provides" and inserting "furnish";

(2) in the last sentence of subsection (f)—

(A) by striking "providing" each place it appears and inserting "furnishing",

(B) by striking "with respect to the providers" and inserting "with respect to the entities", and

(C) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services"; and

(3) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

SEC. 13530. EFFECTIVE DATES.

(a) EXPANSION OF PAYERS AND SERVICES.—The amendments made by sections 13521 and 13522 shall apply with respect to a referral by a physician made on or after December 31, 1994.

(b) OTHER PROVISIONS.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by sections 13523 through 13529 shall apply to referrals made on or after January 1, 1992.

(2) DELAY IN EFFECTIVENESS FOR MORE RESTRICTIVE PROVISIONS.—The amendments made by the following sections shall apply with respect to a referral by a physician made on or after December 31, 1994:

(A) Section 13523(b) (relating to the rural provider exception).

(B) Section 13524(a) (relating to publicly-traded securities).

(C)(i) Section 13525(a) (relating to an exception for office rental and equipment), other than the exception relating to equipment.

(ii) Section 13525(c)(1) (relating to exception for personal services arrangements).

(iii) Section 13525(d) (relating to physician recruitment).

(D) Section 13526 (relating to civil money penalty).

(E) Section 13527 (relating to requirements for group practices), other than subsection (c) (relating to faculty plans).

(F) Section 13528 (relating to non-preemption).

(G) Section 13529(a) (relating to indirect financial relationships).

Subchapter D—Other Provisions

SEC. 13551. DIRECT GRADUATE MEDICAL EDUCATION.

(a) ADJUSTMENT IN GME BASE-YEAR COSTS OF FEDERAL INSURANCE CONTRIBUTIONS ACT.—

(1) IN GENERAL.—In determining the amount of payment to be made under section 1886(h) of the Social Security Act in the case of a hospital described in paragraph (2) for cost reporting periods beginning on or after October 1, 1992, the Secretary of Health and Human Services shall redetermine the approved FTE resident amount to reflect the amount that would have been paid the hospital if, during the hospital's base cost reporting period, the hospital had been liable for FICA taxes or for contributions to the retirement system of a State, a political subdivision of a State, or an instrumentality of such a State or political subdivision with respect to interns and residents in its medical residency training program.

(2) HOSPITALS AFFECTED.—A hospital described in this paragraph is a hospital that did not pay FICA taxes with respect to interns and residents in its medical residency training program during the hospital's base cost reporting period, but is required to pay FICA taxes or make contributions to a retirement system described in paragraph (1) with respect to such interns and residents because of the amendments made by section 11332(b) of OBRA–1990.

(3) DEFINITIONS.—In this subsection:

(A) The "base cost reporting period" for a hospital is the hospital's cost reporting period that began during fiscal year 1984.

(B) The term "FICA taxes" means, with respect to a hospital, the taxes under section 3111 of the Internal Revenue Code of 1986.

(b) PUBLICLY-FUNDED FAMILY PRACTICE RESIDENCY PROGRAMS.—

(1) IN GENERAL.—Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)) is amended by adding at the end the following new subparagraph:

"(I) ADJUSTMENTS FOR CERTAIN FAMILY PRACTICE RESIDENCY PROGRAMS.—

"(i) IN GENERAL.—In the case of an approved medical residency training program (meeting the requirements of clause (ii)) of a hospital which received payments from the United States, a State, or a political subdivision of a State or an instrumentality of such a State or political subdivision (other than payments under this title or a State plan under title XIX) for the program during the cost reporting period that began during fiscal year 1984, the Secretary shall—

"(I) provide for an average amount under paragraph (2)(A) that takes into account the Secretary's estimate of the amount that would have been recognized as reasonable under this title if the hospital had not received such payments, and

"(II) reduce the payment amount otherwise provided under this subsection in an amount equal to the proportion of such program payments during the cost reporting period involved that is allocable to this title.

"(ii) ADDITIONAL REQUIREMENTS.—A hospital's approved medical residency program meets the requirements of this clause if—

"(I) the program is limited to training for family and community medicine;

"(II) the program is the only approved medical residency program of the hospital; and

"(III) the average amount determined under paragraph (2)(A) for the hospital (as determined without regard to the increase in such amount described in clause (i)(I)) does not exceed $10,000.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments under section 1886(h) of the Social Security Act for cost reporting periods beginning on or after October 1, 1990.

(c) PREVENTIVE CARE RESIDENCIES.—

(1) ELIGIBILITY OF PREVENTIVE CARE RESIDENCY PROGRAMS FOR EXPANDED INITIAL RESIDENCY PERIODS.—Section 1886(h)(5)(F)(ii) (42 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting after "fellowship program" the following: "or a preventive care residency or fellowship program".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 13552. IMMUNOSUPPRESSIVE DRUG THERAPY.

Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "title, within" and all that follows and inserting the following: "title, but only in the case of drugs furnished—

"(i) before 1994, within 12 months after the date of the transplant procedure,

"(ii) during 1994, within 18 months after the date of the transplant procedure,

"(iii) during 1995, within 24 months after the date of the transplant procedure,

"(iv) during 1996, within 30 months after the date of the transplant procedure, and

"(v) during any year after 1997, within 36 months after the date of the transplant procedure;".

SEC. 13553. REDUCTION IN PAYMENTS FOR ERYTHROPOIETIN.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(1) by striking "1991" and inserting "1994"; and

(2) by striking "$11" and inserting "$10".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eryth-

ropoietin furnished on or after January 1, 1994.

SEC. 13554. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 13555. EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION DEMONSTRATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA–1987, as amended by section 4207(b)(4)(B) of OBRA–1990, is amended—

(1) in paragraph (1) by striking "December 31, 1995" and inserting "December 31, 1997"; and

(2) in paragraph (4) by striking "March 31, 1996" and inserting "March 31, 1998".

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(1) in the last sentence of subsection (a) by striking "12 months" and inserting "36 months"; and

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or".

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA–1990.

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(5) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(6) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(8) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–90.

SEC. 13556. HOSPICE NOTIFICATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

"(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 13557. INTEREST PAYMENTS.

(a) IN GENERAL.—Sections 1816(c)(2)(B)(ii)(IV) and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to claims received in the 12-month period beginning October 1, 1992, by substituting "30 calendar days" for "24 calendar days" and "17 calendar days".

(b) EFFECTIVE DATE.—Subsection (a) shall be in effect during the period that begins on the date of the enactment of this Act and ends on September 30, 1993.

SEC. 13558. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c–13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c–3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 13951) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "basis," and inserting "basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting "and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c–3(a)(9)(B)) is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c–9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

(B) The amendment made by paragraph (2) (relating to the requirement on reporting of information to State licensing boards) shall take effect on the date of the enactment of this Act.

SEC. 13559. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYER PROVISIONS.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: "In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than October 1, 1993, the Secretary of Health and Human Services (in this subsection referred to as the 'Secretary') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1995 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 13560. MEDICARE ADMINISTRATION BUDGET PROCESS.

(a) ADJUSTMENTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) MEDICARE ADMINISTRATIVE COSTS.—To the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of $1,526,000,000 for new budget authority) for the administration of the Medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

"(i) for fiscal year 1994, $198,000,000 in new budget authority and $198,000,000 in outlays; and

"(ii) for fiscal year 1995, $220,000,000 in new budget authority and $220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.".

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)".

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)"; and

(B) in paragraph (2), by inserting "251(b)(2)(E)," after "251(b)(2)(D),".

SEC. 13561. OTHER PROVISIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTION.—Section 4202 of OBRA–1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels);

(3) in subsection (c)(1)(A), by striking "skilled"; and

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by section 13478(f)(8)(B)(iii)(II) of this title, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(P)".

(5) Section 4201(d)(2) of OBRA–1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(6)(A) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(B) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 13571. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),', and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of sub-

section (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "and the statement" and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking "65 years of age or older",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the full amount of medicare cost-sharing as described in subparagraphs (B), (C), and (D) of section 1905(p)(3) for such individual.".

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.".

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking "of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 13571(m)(4) of the Omnibus Budget Reconciliation Act of 1993.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 13571(m)(4) of the Omnibus Budget Reconciliation Act of 1993.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disllowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of such Act.".

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1994, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)) is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report", and

(C) in paragraph (1), by striking "Statewide";

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

(2) by adding at the end the following new subparagraph:

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1994, and who were not covered under such section before January 1, 1994, the 6-month period specified in that section shall begin January 1, 1994).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1994 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle D—Customs and Trade Provisions

SEC. 13601. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS FOR FISCAL YEARS 1994 AND 1995.

(a) UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $45,416,000 for fiscal year 1994.

"(ii) $45,974,000 for fiscal year 1995.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

(b) UNITED STATES CUSTOMS SERVICE.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $540,783,000 for fiscal year 1994.

"(B) $527,000,000 for fiscal year 1995.

"(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(i) $771,036,000 for fiscal year 1994.

"(ii) $748,000,000 for fiscal year 1995.

"(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

"(3) FOR AIR AND MARINE INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air and marine interdiction programs of the Customs Service not to exceed the following:

"(A) $95,156,000 for fiscal year 1994.

"(B) $128,000,000 for fiscal year 1995.".

(c) OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $20,143,000 for fiscal year 1994.

"(ii) $20,419,000 for fiscal year 1995.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $2,500,000 shall remain available until expended.".

SEC. 13602. EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1998".

SEC. 13603. GENERALIZED SYSTEM OF PREFERENCES.

(a) TREATMENT OF COUNTRIES FORMERLY WITHIN THE UNION OF SOVIET SOCIALIST REPUBLICS.—The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Union of Soviet Socialist Republics".

(b) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—

(1) IN GENERAL.—Section 505(a) of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended by striking out "July 4, 1993" and inserting "September 30, 1994".

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 4, 1993, and

(B) that was made after July 4, 1993, and before such date of enactment,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this paragraph, the term "entry" includes a withdrawal from warehouse for consumption.

SEC. 13604. EXTENSION OF, AND AUTHORIZATION OF APPROPRIATIONS FOR, THE WORKER TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION.—Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding 2271) is amended—

(1) by striking out "No" and all that follows thereafter down through "chapter 2, no" in subsection (b) and inserting "No"; and

(2) by adding at the end the following new subsection:

"(c) No assistance, vouchers, allowances, or other payments may be provided under chapter 2 after September 30, 1996.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "and 1993," and inserting "1993, 1994, 1995, and 1996,".

SEC. 13605. EXTENSION OF URUGUAY ROUND TRADE AGREEMENT NEGOTIATING AND PROCLAMATION AUTHORITY AND OF "FAST TRACK" PROCEDURES TO IMPLEMENTING LEGISLATION.

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) is amended by inserting at the end the following new subsection:

"(e) SPECIAL PROVISIONS REGARDING URUGUAY ROUND TRADE NEGOTIATIONS.—

"(1) IN GENERAL.—Notwithstanding the time limitations in subsections (a) and (b), if the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade has not resulted in trade agreements by May 31, 1993, the President may, during the period after May 31, 1993, and before April 16, 1994, enter into, under subsections (a) and (b), trade agreements resulting from such negotiations.

"(2) APPLICATION OF TARIFF PROCLAMATION AUTHORITY.—No proclamation under subsection (a) to carry out the provisions regarding tariff barriers of a trade agreement that is entered into pursuant to paragraph (1) may take effect before the effective date of a bill that implements the provisions regarding nontariff barriers of a trade agreement that is entered into under such paragraph.

"(3) APPLICATION OF IMPLEMENTING AND 'FAST TRACK' PROCEDURES.—Section 1103 applies to any trade agreement negotiated under subsection (b) pursuant to paragraph (1), except that—

"(A) in applying subsection (a)(1)(A) of section 1103 to any such agreement, the phrase 'at least 120 calendar days before the day on which he enters into the trade agreement (but not later than December 15, 1993),' shall be substituted for the phrase 'at least 90 calendar days before the day on which he enters into the trade agreement; and

"(B) no provision of subsection (b) of section 1103 other than paragraph (1)(A) applies to any such agreement and in applying such paragraph, 'April 16, 1994;' shall be substituted for 'June 1, 1991;'.

"(4) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement provided for under paragraph (1) shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 1103(a)(1)(A) of his intention to enter into the agreement (but before January 15, 1994).".

SEC. 13606. REPEAL OF EAST-WEST TRADE STATISTICS MONITORING SYSTEM.

(a) REPEAL.—Section 410 of the Trade Act of 1974 (19 U.S.C. 2440) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for such Act of 1974 is amended by striking out the following:

"Sec. 410. East-West Trade Statistics Monitoring System.".

Subtitle E—Customs Officer Pay Reform

SEC. 13701. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs

officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1)—

"(I) does not commence within 16 hours of the customs officer's last regularly scheduled work assignment, or

"(II) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK.—If the regularly scheduled work assignment of a customs officer is 7:30 p.m. to 3:30 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) LIMITATIONS.—

"(1) FISCAL YEAR CAP.—The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) and premium pay under subsection (b) that a customs officer may be paid in any fiscal year may not exceed $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

"(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulations—

"(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and

"(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "at night" in the section heading and inserting "during overtime hours";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after October 1, 1993.

SEC. 13702. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 13703. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows: "(i) in—

"(I) paying overtime compensation under section 5(a) of the Act of February 13, 1911,

"(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the cost of the premium pay for that year calculated under such section 5(b) as amended by section 13701 of the Omnibus Budget Reconciliation Act of 1993 and the cost of such pay calculated under subchapter V of chapter 55 of title 5, United States Code,

"(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I), and

"(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and";

(2) by inserting before the flush sentence appearing after clause (ii) of subparagraph (A) the following sentence: "The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), and (IV) of clause (i).";

(3) by striking out "except for costs described in subparagraph (A)(i) (I) and (II)," in subparagraph (B)(i); and

(4) by amending subparagraph (C)—

(A) by striking out "to fully reimburse inspectional overtime and preclearance costs" in clause (i) and inserting "to reimburse costs described in subparagraph (A)(i)"; and

(B) by inserting after clause (ii) of subparagraph (C) the following:

"(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

"(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional services if section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267), as in effect before the enactment of section 13701 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

"(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to such services under section 5 of the Act of February 13, 1991, as amended by section 13701 of the Omnibus Budget Reconciliation Act of 1993, and under section 8331(3) of title 5, United States Code, as amended by section 13704 of such Act of 1993,

and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or $18,000,000, whichever amount is less. Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same extent as are reimbursements under subparagraph (B)(iii).".

SEC. 13704. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting "; and";

(3) by adding after subparagraph (D) the following:

"(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;"; and

(4) by striking out "subparagraphs (B), (C), and (D) of this paragraph," and inserting "subparagraphs (B), (C), (D), and (E) of this paragraph".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply only with respect to service performed on or after such date.

SEC. 13705. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.—Subparagraph (D) of section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(D)) is amended to read as follows:

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(i) containing a detailed accounting of all expenditures from the Customs User Fee Ac-

count during such year, including a summary of the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii);

"(ii) containing a listing of all callback assignments of customs officers for which overtime compensation was paid under section 5(a) of the Act of February 13, 1911, and that were less than 1 hour in duration; and

"(iii) containing a listing of all customs officers who were paid $25,000 or more under subsections 5(a) and 5(b) of the Act of February 13, 1911, including a listing of the total compensation paid to each of those customs officers under all other statutory authority.".

(b) OTHER REPORTS.—

(1) GAO REPORT.—The Comptroller General of the United States shall undertake—

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.

(2) TREASURY RECOMMENDATION.—On the day that the President submits the budget for the United States Government for fiscal year 1995 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) DEFINITION OF COMMITTEES.—For purposes of this subsection, the term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE XIV—REVENUE PROVISIONS

SEC. 14001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1993".

(b) AMENDMENT TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except in the case of the amendments made by section 14221 (relating to corporate rate increase), no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this title.

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Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 14101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) PERMANENT EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

(d) TRANSITION RULES.—

(1) WAIVER OF INTEREST AND PENALTIES.—No interest, penalty, or addition to tax shall be imposed or required to be paid solely by reason of a failure, before the date of the enactment of this Act, to treat educational assistance in a manner consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as in effect before the amendments made by subsection (a)).

(2) SPECIAL RULES FOR 1992.—

(A) EMPLOYMENT TAXES.—If—

(i) an employer provided an employee with educational assistance during the period beginning on July 1, 1992, and ending on December 31, 1992,

(ii) consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as so in effect), such employer treated such assistance as taxable for purposes of any employment tax and as a result of such treatment there was an increase in taxable wages for purposes of such tax,

(iii) on or after the date of the enactment of this Act and before January 1, 1994, such employer pays such employee amounts which are taxable wages for purposes of such tax and which equal or exceed the increase referred to in clause (ii), and

(iv) such employee did not treat such assistance for purposes of such employment tax (or for purposes of chapter 1 of the Internal Revenue Code of 1986 in the case of employment tax imposed by chapter 24 of such Code) in a manner inconsistent with the employer's treatment of such assistance,

the amendments made by subsection (a) shall not apply to such educational assistance for purposes of such employment tax, but, for purposes of applying such employment tax (and for purposes of the reporting requirements imposed by chapter 61 of such Code), the taxable wages of the employee referred to in clause (iii) shall be reduced by the amount of the increase referred to in clause (ii). For purposes of clause (iv), an employer may assume that the employee treated the assistance in a manner consistent with the employer's treatment unless such employer has actual knowledge to the contrary.

(B) REPORTING REQUIREMENT.—An employer shall separately report the amounts of any reduction under subparagraph (A) as nontaxable income on any returns or receipts required under chapter 61 of such Code for calendar year 1993.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of such Code.

(ii) TAXABLE WAGES.—The term "taxable wages"means—

(I) wages (as defined in section 3121(a) of such Code) in the case of the taxes imposed by chapter 21 of such Code,

(II) compensation (as defined in section 3231(e) of such Code) in the case of the taxes imposed by chapter 22 of such Code,

(III) wages (as defined in section 3306(b) of such Code) in the case of the taxes imposed by chapter 23 of such Code, and

(IV) wages (as defined in section 3401(a) of such Code) in the case of the taxes imposed by chapter 24 of such Code.

(3) INCOME TAX TREATMENT.—If—

(A) subparagraph (A) of paragraph (2) applies to any educational assistance referred to in such paragraph provided to any employee, and

(B) such employee included such assistance in his taxable income for purposes of the tax imposed by chapter 1 of such Code,

the amendments made by subsection (a) shall not apply to such assistance for purposes of such chapter 1, but the amount included in the gross income of such employee by reason of wages received from the employer referred to in subparagraph (A) of paragraph (2) during 1993 shall be reduced in the manner provided in such subparagraph (A).

SEC. 14102. TARGETED JOBS CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after June 30, 1992.

(b) CREDIT FOR PARTICIPANTS IN APPROVED SCHOOL-TO-WORK PROGRAMS.—

(1) IN GENERAL.—Subparagraph (I) of section 51(d)(1) (defining members of targeted group) is amended to read as follows:

"(I) a qualified participant in an approved school-to-work program, or".

(2) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM.—Paragraph (10) of section 51(d) is amended to read as follows:

"(10) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM DEFINED.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified participant in an approved school-to-work program' means any individual who is certified under an approved school-to-work program as—

"(i) having attained age 16 but not having attained age 21, and

"(ii) being enrolled in and making satisfactory progress in completing such approved school-to-work program.

"(B) LIMITATION ON NUMBER OF PARTICIPANTS.—

"(i) IN GENERAL.—Any individual who begins work for the employer during any calendar year shall not be treated as a qualified participant in an approved school-to-work program unless the individual is certified under such program as an eligible participant with respect to such calendar year.

"(ii) LIMITATION ON CERTIFICATIONS.—The aggregate number of individuals certified under an approved school-to-work program as eligible participants with respect to any calendar year shall not exceed the portion of the national school-to-work program limitation for such calendar year allocated under subsection (l) to such program.

"(C) APPROVED SCHOOL-TO-WORK PROGRAM.—The term 'approved school-to-work program' means any program which—

"(i) is a planned program of structured job training designed to integrate academic instruction provided by an educational institution and work-based learning provided by an employer, and

"(ii) is approved by the Secretaries of Labor and Education.

"(D) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—For purposes of applying this subpart to wages paid or incurred to any qualified participant in an approved school-to-work program, subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

"(E) WAGES.—In the case of remuneration attributable to services performed while the individual meets the requirements of subparagraph (A), wages, and unemployment insurance wages, shall be determined without regard to section 3306(c)(10)(C)."

(3) OVERALL LIMITATIONS.—Section 51 is amended by adding at the end thereof the following new subsection:

"(l) OVERALL LIMITATION ON APPROVED SCHOOL-TO-WORK PROGRAM PARTICIPANTS.—

"(1) IN GENERAL.—For purposes of subsection (d)(10), the national school-to-work program limitation—

"(A) for calendar year 1994 is 125,000,

"(B) for calendar year 1995 is 140,000,

"(C) for calendar year 1996 is 160,000,

"(D) for calendar year 1997 is 180,000, and

"(E) for calendar year 1998 and any subsequent calendar year is 200,000.

"(2) ALLOCATION TO STATES.—The national school-to-work program limitation for any calendar year shall be allocated among the States in proportion to the number of their eligible participants that are estimated to be served in approved school-to-work programs for that year. Such estimates shall be published by the Secretaries of Labor and Education before the beginning of the calendar year to which the allocation applies.

"(3) ALLOCATION TO APPROVED SCHOOL-TO-WORK PROGRAMS.—The portion of the national school-to-work program limitation for any calendar year which is allocated to any State shall be allocated among the approved school-to-work programs in such State in such manner as the Secretaries of Labor and Education shall prescribe."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply in the case of individuals who begin work for the employer after December 31, 1993.

PART II—INVESTMENT INCENTIVES

Subpart A—Research Credit

SEC. 14111. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 14112. MODIFICATION OF FIXED BASE PERCENTAGE FOR STARTUP COMPANIES.

(a) GENERAL RULE.—Clause (ii) of section 41(c)(3)(B) is amended to read as follows:

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, 1/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, 1/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, 1/2 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, 2/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, 5/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

"(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 41(c)(3)(B) is amended by striking "clause (i)" and inserting "clauses (i) and (ii)".

(2) Subparagraph (D) of section 41(c)(3) is amended by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Capital Gain Provisions

SEC. 14113. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) 50-PERCENT EXCLUSION.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) PER-ISSUER LIMITATION ON TAXPAYER'S ELIGIBLE GAIN.—

"(1) IN GENERAL.—If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate amount of such gain from dispositions of stock issued by such corporation which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

"(A) $10,000,000 reduced by the aggregate amount of eligible gain taken into account under subsection (a) for prior taxable years and attributable to dispositions of stock issued by such corporation, or

"(B) 10 times the aggregate adjusted bases of qualified small business stock issued by such corporation and disposed of by the taxpayer during the taxable year.

For purposes of subparagraph (B), the adjusted basis of any stock shall be determined without regard to any addition to basis after the date on which such stock was originally issued.

"(2) ELIGIBLE GAIN.—For purposes of this subsection, the term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) TREATMENT OF MARRIED INDIVIDUALS.—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000'.

"(B) ALLOCATION OF EXCLUSION.—In the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(c) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a C corporation which is originally issued after December 31, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services provided to such corporation (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT; ETC.—

"(A) IN GENERAL.—Stock in a corporation shall not be treated as qualified small busi-

ness stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e) and such corporation is a C corporation.

"(B) SPECIAL RULE FOR CERTAIN SMALL BUSINESS INVESTMENT COMPANIES.—

"(i) WAIVER OF ACTIVE BUSINESS REQUIREMENT.—Notwithstanding any provision of subsection (e), a corporation shall be treated as meeting the active business requirements of such subsection for any period during which such corporation qualifies as a specialized small business investment company.

"(ii) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.—For purposes of clause (i), the term 'specialized small business investment company' means any eligible corporation (as defined in subsection (e)(4)) which is licensed to operate under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) REDEMPTIONS FROM TAXPAYER OR RELATED PERSON.—Stock acquired by the taxpayer shall not be treated as qualified small business stock if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(B) SIGNIFICANT REDEMPTIONS.—Stock issued by a corporation shall not be treated as qualified business stock if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

"(C) ACQUISITIONS BY RELATED PERSONS.—For purposes of this paragraph, the purchase by any person related (within the meaning of section 267(b) or 707(b)) to the issuing corporation of any stock in the issuing corporation shall be treated as a purchase by the issuing corporation.

"(d) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation which is a C corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after January 1, 1993, and before the issuance did not exceed $50,000,000,

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts received in the issuance) does not exceed $50,000,000, and

"(C) such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (e)(5)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(e) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period—

"(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of a qualified trade or business, and

"(B) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of this subsection, the term 'qualified trade or business' means any trade or business other than—

"(A) any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any other trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,

"(B) any banking, insurance, financing, leasing, investing, or similar business,

"(C) any farming business (including the business of raising or harvesting trees),

"(D) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(E) any business of operating a hotel, motel, restaurant, or similar business.

"(4) ELIGIBLE CORPORATION.—For purposes of this subsection, the term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(A) a DISC or former DISC,

"(B) a corporation with respect to which an election under section 936 is in effect,

"(C) a regulated investment company, real estate investment trust, or REMIC, and

"(D) a cooperative.

"(5) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (6)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(6) WORKING CAPITAL.—For purposes of paragraph (1)(A), any assets which—

"(A) are held as a part of the reasonably required working capital needs of a qualified trade or business of the corporation, or

"(B) are held for investment and are reasonably expected to be used within 2 years to finance future research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

"(7) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

"(8) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

"(f) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock in a corporation is acquired solely through the conversion of other stock in such corporation which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(g) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2)—

"(A) such amount shall be treated as gain described in subsection (a), and

"(B) for purposes of applying subsection (b), such amount shall be treated as gain from a disposition of stock in the corporation issuing the stock disposed of by the pass-thru entity and the taxpayer's proportionate share of the adjusted basis of the pass-thru entity in such stock shall be taken into account.

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity (determined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the

holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer described in paragraph (2), the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) DESCRIPTION OF TRANSFERS.—A transfer is described in this subsection if such transfer is—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding period requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified small business stock is exchanged for other stock which would not qualify as qualified small business stock but for this subparagraph, such other stock shall be treated as qualified small business stock acquired on the date on which the exchanged stock was acquired.

"(B) LIMITATION.—This section shall apply to gain from the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was exchanged.

"(i) BASIS RULES.—For purposes of this section—

"(1) STOCK EXCHANGED FOR PROPERTY.—In the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) TREATMENT OF CONTRIBUTIONS TO CAPITAL.—If the adjusted basis of any qualified small business stock is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

"(j) TREATMENT OF CERTAIN SHORT POSITIONS.—

"(1) IN GENERAL.—If the taxpayer has an offsetting short position with respect to any qualified small business stock, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless—

"(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

"(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

"(2) OFFSETTING SHORT POSITION.—For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified small business stock if—

"(A) the taxpayer has made a short sale of substantially identical property,

"(B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or

"(C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified small business stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise."

(b) ONE-HALF OF EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to one-half of the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) PENALTY FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS.—Section 6652 is amended by inserting before the last subsection thereof the following new subsection:

"(k) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTION 1202.—In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to $50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting '$100' for '$50'. In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years."

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account.".

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. 50-percent exclusion for gain from certain small business stock."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after December 31, 1992.

SEC. 14114. ROLLOVER OF GAIN FROM SALE OF PUBLICLY TRADED SECURITIES INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

"SEC. 1044. ROLLOVER OF PUBLICLY TRADED SECURITIES GAIN INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

"(a) NONRECOGNITION OF GAIN.—In the case of the sale of any publicly traded securities with respect to which the taxpayer elects the

application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any common stock or partnership interest in a specialized small business investment company purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

"(b) LIMITATIONS.—

"(1) LIMITATION ON INDIVIDUALS.—In the case of an individual, the amount of gain which may be excluded under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $50,000, or

"(B) $500,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.

"(2) LIMITATION ON C CORPORATIONS.—In the case of a C corporation, the amount of gain which may be excluded under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $250,000, or

"(B) $1,000,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.

"(3) SPECIAL RULES FOR MARRIED INDIVIDUALS.—For purposes of this subsection—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1) shall be applied by substituting '$25,000' for '$50,000' and '$250,000' for '$500,000'.

"(B) ALLOCATION OF GAIN.—In the case of any joint return, the amount of gain excluded under subsection (a) for any taxable year shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(4) SPECIAL RULES FOR C CORPORATION.—For purposes of this subsection—

"(A) all corporations which are members of the same controlled group of corporations (within the meaning of section 52(a)) shall be treated as 1 taxpayer, and

"(B) any gain excluded under subsection (a) by a predecessor of any C corporation shall be treated as having been excluded by such C corporation.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities which are traded on an established securities market.

"(2) PURCHASE.—The term 'purchase' has the meaning given such term by section 1043(b)(4).

"(3) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.—The term 'specialized small business investment company' means any partnership or corporation which is licensed by the Small Business Administration under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

"(4) CERTAIN ENTITIES NOT ELIGIBLE.—This section shall not apply to any estate, trust, partnership, or S corporation.

"(d) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any common stock or partnership interest in any specialized small business investment company which is purchased by the taxpayer during the 60-day period described in subsection (a). This subsection shall not apply for purposes of section 1202."

(b) CONFORMING AMENDMENT.—Paragraph (24) of section 1016(a) is amended—

(1) by striking "section 1043" and inserting "section 1043 or 1044", and

(2) by striking "section 1043(c)" and inserting "section 1043(c) or 1044(d), as the case may be".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1044. Rollover of publicly traded securities gain into specialized small business investment companies."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on and after the date of the enactment of this Act, in taxable years ending on and after such date.

Subpart C—Modifications to Minimum Tax Depreciation Rules

SEC. 14115. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.

(a) GENERAL RULE.—Paragraph (1) of section 56(a) (relating to depreciation) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) TREATMENT OF CERTAIN PERSONAL PROPERTY PLACED IN SERVICE AFTER 1993.—

"(i) IN GENERAL.—In the case of any property to which this subparagraph applies, the depreciation deduction allowable under section 167 shall be determined as provided in section 168(a), except that the method of depreciation used shall be—

"(I) the 120 percent declining balance method switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance, or

"(II) the straight line method in the case of property for which the applicable depreciation method under section 168(a) is the straight line method.

"(ii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any tangible property placed in service after December 31, 1993, except that this subparagraph shall not apply to—

"(I) any residential rental property or nonresidential real property (within the meaning of section 168(e)), and

"(II) any other property for which the depreciation deduction provided by section 167(a) for purposes of the regular tax is computed under the alternative depreciation system of section 168(g).

"(iii) COORDINATION WITH SUBPARAGRAPH (A).—Subparagraph (A) shall not apply to any property to which this subparagraph applies."

(b) ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property to which subsection (a)(1)(B) applies, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(B).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 168(b) is amended to read as follows:

"(2) SPECIAL RULE FOR DECLINING BALANCE METHOD IN CERTAIN CASES.—

"(A) 150 PERCENT METHOD FOR CERTAIN PROPERTY.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(i) any 15-year or 20-year property, or

"(ii) any property used in a farming business (within the meaning of section 263A(e)(4)).

"(B) ELECTION TO USE MINIMUM TAX METHOD.—In the case of any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this subparagraph apply, paragraph (1) shall be applied by substituting '120 percent' for '200 percent' (and subparagraph (A) of this paragraph shall not apply)."

(2) Paragraph (5) of section 168(b) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(3) Subsection (c) of section 168 is amended—

(A) by striking paragraph (2), and

(B) by striking so much of such subsection as precedes the table contained in paragraph (1) and inserting the following:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1993.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (D)(i) thereof (as redesignated by subsection (a) of this section).

Subpart D—Increase in Expense Treatment for Small Businesses

SEC. 14116. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking "$10,000" and inserting "$25,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

PART III—TAX-EXEMPT BOND PROVISIONS

SEC. 14121. HIGH-SPEED INTERCITY RAIL FACILITY BONDS EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exemption for certain bonds) is amended by striking "75 percent of".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1993.

SEC. 14122. PERMANENT EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

PART IV—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 14131. EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of the earned income amount, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

"(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

"(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34.37	16.16
2 or more qualifying children	39.66	19.83
No qualifying children	7.65	7.65

"(B) TRANSITIONAL PERCENTAGES.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26.60	16.16
2 or more qualifying children	31.59	15.79
No qualifying children	7.65	7.65

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,500	$11,000
No qualifying children	$4,000	$5,000

"(B) TRANSITIONAL AMOUNTS.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$7,750	$11,000
2 or more qualifying children	$8,500	$11,000
No qualifying children	$4,000	$5,000".

(b) ELIGIBLE INDIVIDUAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible individual' means—

"(i) any individual who has a qualifying child for the taxable year, or

"(ii) any other individual who does not have a qualifying child for the taxable year, if—

"(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

"(II) such individual (or, if the individual is married, the individual's spouse) has attained age 22 before the close of the taxable year, and

"(III) such individual (or, if the individual is married, the individual's spouse) is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year."

(c) INFLATION ADJUSTMENTS.—Section 32(i) (relating to inflation adjustments) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1993' for 'calendar year 1992'.", and

(2) by redesignating paragraph (3) as paragraph (2).

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 32(c)(3) is amended—

(A) by striking "clause (i) or (ii)" in clause (iii) and inserting "clause (i)",

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(2) Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(3) Section 213 is amended by striking subsection (f).

(4) Subsection (b) of section 3507 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) certifies that the employee has 1 or more qualifying children (within the meaning of section 32(c)(3)) for such taxable year,".

(5) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than the credit percentage in effect under section 32(b)(1) for an eligible individual with 1 qualifying child and with earned income not in excess of the earned income amount in effect under section 32(b)(2) for such an eligible individual, which

"(ii) phases out at the phaseout percentage in effect under section 32(b)(1) for such an eligible individual between the phaseout amount in effect under section 32(b)(2) for such an eligible individual and the amount of earned income at which the credit under section 32(a) phases out for such an eligible individual, or".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

PART V—INCENTIVES FOR INVESTMENT IN REAL ESTATE

Subpart A—Extension of Qualified Mortgage Bonds and Low-Income Housing Credit

SEC. 14141. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 14142. PERMANENT EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(b) HOME ASSISTANCE NOT TO RESULT IN CERTAIN BUILDINGS BEING FEDERALLY SUBSIDIZED.—Paragraph (2) of section 42(i) (relating to determination of whether building is federally subsidized) is amended by adding at the end thereof the following new subparagraph:

"(E) BUILDINGS RECEIVING HOME ASSISTANCE.—Assistance provided under the HOME Investment Partnerships Act (as in effect on the date of the enactment of this subparagraph) with respect to any building shall not be taken under subparagraph (D) if 40 percent or more of the residential units in the building are occupied by individuals whose income is 50 percent or less of area median gross income. Subsection (d)(5)(C) shall not apply to any building to which the preceding sentence applies.".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to periods after June 30, 1992.

(2) The amendment made by subsection (b) shall apply to periods after the date of the enactment of this Act.

Subpart B—Modification of Passive Loss Rules

SEC. 14143. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of section 469 (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity. Nothing in the preceding provisions of this subparagraph shall be construed as affecting the determination of whether the taxpayer materially participates with respect to any interest in a limited partnership as a limited partner.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term

'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(2) Clause (iv) of section 469(i)(3)(E) is amended by inserting "or any loss allowable by reason of subsection (c)(7)" after "loss".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 14144. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution if—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured.".

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after January 1, 1994.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1994.

SEC. 14145. REPEAL OF SPECIAL TREATMENT OF PUBLICLY TREATED PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to partnership years beginning on or after January 1, 1994.

SEC. 14146. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1994.

SEC. 14147. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1994.

SEC. 14148. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended—

(1) by striking "all gains on" and inserting "all gains or losses recognized, in connection with the organization's investment activities, from",

(2) by striking ", written by the organization in connection with its investment activities," and

(3) by inserting "or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after January 1, 1994.

SEC. 14149. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart D—Discharge of Indebtedness

SEC. 14150. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) in the case of a taxpayer other than a C corporation, the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATIONS.—

"(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by the taxpayer in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before January 1, 1993, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended—

(A) by striking "subsections (a), (b), and (g)" in paragraphs (6) and (7)(A) and inserting "subsections (a), (b), (c), and (g)",

(B) by striking "SUBSECTIONS (a), (b), AND (g)" in the subsection heading and inserting "CERTAIN PROVISIONS", and

(C) by striking "SUBSECTIONS (a), (b), AND (g)" in the headings of paragraphs (6) and (7)(A) and inserting "CERTAIN PROVISIONS".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence:"The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting "or under paragraph (3)(B) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting "or (c)(1)" after "subsection (b)(5)".

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

"(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

"(ii) subparagraph (E) shall not apply, and

"(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a)."

(9) Paragraph (1) of section 703(b) is amended by striking "subsection (b)(5)" and inserting "subsection (b)(5) or (c)(3)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1992, in taxable years ending after such date.

Subpart E—Increase in Recovery Period for Nonresidential Real Property

SEC. 14151. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

"Nonresidential real property ...39 years.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after February 25, 1993.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1994, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 25, 1993, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 25, 1993.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

PART VI—LUXURY TAX

SEC. 14161. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1992, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or

accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 14162. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect on the day before the date of the enactment of this Act, is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C),

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or", and

(4) by inserting after subparagraph (C) the following flush sentence:

"The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A)."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

(c) PERIOD FOR FILING CLAIMS.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 14163. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN BOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) in the case of diesel fuel, a boat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

PART VII—OTHER CHANGES

SEC. 14171. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 (as amended by section 14113) is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.—Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings."

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) (as amended by section 14113) is amended by striking "(5), (6), and (8)" and inserting "(5), and (7)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

(e) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limita-

tions on applying the procedure only to items with significant artistic or cultural value, and recommendations for legislative action needed to implement the proposed procedure.

SEC. 14172. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 14173. TEMPORARY EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.—

(1) IN GENERAL.—Paragraph (2)(B) of section 162(l) is amended to read as follows:

"(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

Subtitle B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

Subpart A—Rate Increases

SEC. 14201. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $36,900	15% of taxable income.
Over $36,900 but not over $89,150.	$5,535, plus 28% of the excess over $36,900.
Over $89,150 but not over $140,000.	$20,165, plus 31% of the excess over $89,150.
Over $140,000	$35,928.50, plus 36% of the excess over $140,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $29,600	15% of taxable income.
Over $29,600 but not over $76,400.	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500.	$17,544, plus 31% of the excess over $76,400.
Over $127,500	$33,385, plus 36% of the excess over $127,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500.	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000.	$12,107, plus 31% of the excess over $53,500.
Over $115,000	$31,172, plus 36% of the excess over $115,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575.	$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000.	$10,082.50, plus 31% of the excess over $44,575.
Over $70,000	$17,964.25, plus 36% of the excess over $70,000.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500.	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500.	$785, plus 31% of the excess over $3,500.
Over $5,500	$1,405, plus 36% of the excess over $5,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 531 is amended by striking "28 percent" and inserting "36 percent".

(2) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(3)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting"1993", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1992".

(B) Subsection (f) of section 1 is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—

"(A) CALENDAR YEAR 1994.—In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

"(B) LATER CALENDAR YEARS.—In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting '1993' for '1992'."

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1992".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1992".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1992".

(F) Subparagraph (B) of section 132(f)(6) is amended by striking ", determined by substituting" and all that follows down through the period at the end thereof and inserting a period.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1992".

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14202. SURTAX ON HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—

(1) Subsection (a) of section 1 (as amended by section 14201) is amended by striking the last item in the table contained therein and inserting the following:

Over $140,000 but not over $250,000.	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000."

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $127,500 but not over $250,000.	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000."

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $115,000 but not over $250,000.	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000."

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $70,000 but not over $125,000.	$17,964.25, plus 36% of the excess over $70,000.
Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000."

(5) Subsection (e) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $5,500 but not over $7,500.	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500."

(b) TECHNICAL AMENDMENT.—Sections 531 and 541 (as amended by section 1420) are each amended by striking "36 percent" and inserting "39.6 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14203. MODIFICATIONS TO ALTERNATIVE MINIMUM TAX RATES AND EXEMPTION AMOUNTS.

(a) INCREASE IN RATE.—Paragraph (1) of section 55(b) (defining tentative minimum tax) is amended to read as follows:

"(1) AMOUNT OF TENTATIVE TAX.—

"(A) NONCORPORATE TAXPAYERS.—

"(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

"(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

"(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

"(ii) TAXABLE EXCESS.—For purposes of clause (i), the term 'taxable excess' means so

much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

"(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN.—In the case of a married individual filing a separate return, clause (i) shall be applied by substituting '$87,500' for '$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

"(B) CORPORATIONS.—In the case of a corporation, the tentative minimum tax for the taxable year is—

"(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(ii) the alternative minimum tax foreign tax credit for the taxable year."

(b) INCREASE IN EXEMPTION AMOUNTS.—Paragraph (1) of section 55(d) (defining exemption amount) is amended—

(1) by striking "$40,000" in subparagraph (A) and inserting "$45,000",

(2) by striking "$30,000" in subparagraph (B) and inserting "$33,750", and

(3) by striking "$20,000" in subparagraph (C) and inserting "$22,500".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 55(d)(3) is amended by striking "$155,000 or (ii) $20,000" and inserting "$165,000 or (ii) $22,500".

(2)(A) Subparagraph (A) of section 897(a)(2) is amended by striking "the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of" and inserting "the taxable excess for purposes of section 55(b)(1)(A) shall not be less than".

(B) The heading for paragraph (2) of section 897(a) is amended by striking "21-PERCENT".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14204. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS MADE PERMANENT.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is hereby repealed.

SEC. 14205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS MADE PERMANENT.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 14206. PROVISIONS TO PREVENT CONVERSION OF ORDINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANSACTIONS.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

"(a) GENERAL RULE.—In the case of any gain—

"(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

"(2) which is recognized on the disposition of any property which was held as part of a conversion transaction,

such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

"(b) APPLICABLE IMPUTED INCOME AMOUNT.—For purposes of subsection (a), the term 'applicable imputed income amount' means, with respect to any disposition referred to in subsection (a), an amount equal to—

"(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

"(2) the amount treated as ordinary income under subsection (a) with respect to any prior disposition of property which was held as a part of such transaction.

The Secretary shall by regulations provide for such reductions in the applicable imputed income amount as may be appropriate by reason of amounts capitalized under section 263(g), ordinary income received, or otherwise.

"(c) CONVERSION TRANSACTION.—For purposes of this section, the term 'conversion transaction' means any of the following where substantially all of the taxpayer's expected return from the transaction is attributable to the time value of the taxpayer's net investment in such transaction:

"(1) The holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis.

"(2) Any applicable straddle.

"(3) Any other transaction which is marketed or sold as producing capital gains.

"(4) Any other transaction specified in regulations prescribed by the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE STRADDLE.—The term 'applicable straddle' means any straddle (within the meaning of section 1092(c)); except that the term 'personal property' shall include stock.

"(2) APPLICABLE RATE.—The term 'applicable rate' means—

"(A) the applicable Federal rate determined under section 1274(d) (compounded semiannually) as if the conversion transaction were a debt instrument, or

"(B) if the term of the conversion transaction is indefinite, the Federal short-term rates in effect under section 6621(b) during the period of the conversion transaction (compounded daily).

"(3) TREATMENT OF PROPERTY WITH BUILT-IN LOSS.—

"(A) IN GENERAL.—If any property with a built-in loss becomes part of a conversion transaction—

"(i) for purposes of applying this subtitle to such property for periods after such property becomes part of such transaction, the adjusted basis of such property shall be its fair market value as of the time it became part of such transaction, except that

"(ii) upon the disposition of such property in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

"(B) BUILT-IN LOSS.—For purposes of subparagraph (A), the term 'built-in loss' means the excess (if any) of the adjusted basis of any property over its fair market value (determined as of the date on which such property became part of such transaction).

"(4) PROPERTY TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—In determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any property which becomes part of such transaction (determined as of the date on which such property became part of such transaction)."

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1258. Recharacterization of gain from certain financial transactions."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.—

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.—The following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating subclauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS.—For purposes of section 1277, the term 'market discount bond' shall not include any tax-exempt obligation (as defined in section 1275(a)(3))."

(B) CONFORMING AMENDMENT.—Sections 1276(a)(4) and 1278(b)(1) are each amended by striking "sections 871(a)" and inserting "sections 103, 871(a),".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) TREATMENT OF STRIPPED PREFERRED STOCK.—

(1) IN GENERAL.—Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF PURCHASER OF STRIPPED PREFERRED STOCK.—

"(1) IN GENERAL.—If any person purchases after April 30, 1993 any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts which would have been so includible if such stripped preferred stock were a bond issued on the purchase date and having original issue discount equal to the excess, if any, of—

"(A) the redemption price for such stock, over

"(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

"(2) BASIS ADJUSTMENTS.—Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

"(3) TAX TREATMENT OF PERSON STRIPPING STOCK.—If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993 disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.

"(4) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

"(5) STRIPPED PREFERRED STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

"(B) DESCRIPTION OF STOCK.—Stock is described in this subsection if such stock—

"(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

"(ii) has a fixed redemption price.

"(6) PURCHASE.—For purposes of this subsection, the term 'purchase' means—

"(A) any acquisition of stock, where

"(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired."

(2) COORDINATION WITH SECTION 167(e).—Paragraph (2) of section 167(e) is amended to read as follows:

"(2) COORDINATION WITH OTHER PROVISIONS.—

"(A) SECTION 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(B) SECTION 305(e).—This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

"(ii) the excess (if any) of—

"(I) the net gain attributable to the disposition of property held for investment, over

"(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

"(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause."

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE.—Subsection (h) of section 1 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(e) TREATMENT OF CERTAIN APPRECIATED INVENTORY.—

(1) Paragraph (1) of section 751(d) is amended to read as follows:

"(1) SUBSTANTIAL APPRECIATION.—

"(A) IN GENERAL.—Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

"(B) CERTAIN PROPERTY EXCLUDED.—For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.

Subpart B—Other Provisions

SEC. 14207. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting "in the case of the taxes imposed by sections 3101(a) and 3111(a)" after "(1)",

(B) by striking "applicable contribution base (as determined under subsection (x))" each place it appears and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(C) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking "that part of the net" in paragraph (1) and inserting "in the case of the tax imposed by section 1401(a), that part of the net",

(B) by striking "applicable contribution base (as determined under subsection (k))" in paragraph (1) and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)",

(C) by inserting "and" after "section 3121(b),", and

(D) by striking "and (C) includes" and all that follows through "3111(b)".

(2) Section 1402 is amended by striking subsection (k).

(c) RAILROAD RETIREMENT TAX.—

(1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

"(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

"(II) so much of the rate applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1402(b)."

(2) Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6413(c) is amended by striking "section 3101 or section 3201" and inserting "section 3101(a) or section 3201(a) (to the extent the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))".

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking "section 3101" each place it appears and inserting "section 3101(a)".

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 of such Code are each amended by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1994 and later calendar years.

SEC. 14208. TOP ESTATE AND GIFT TAX RATES MADE PERMANENT.

(a) GENERAL RULE.—The table contained in paragraph (1) of section 2001(c) is amended by striking the last item and inserting the following new items:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,800, plus 55% of the excess over $3,000,000."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking "($18,340,000 in the case of decedents dying, and gifts made, after 1992)".

(3) The last sentence of section 2101(b) is amended by striking "section 2001(c)(3)" and inserting "section 2001(c)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 14209. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertainment expenses allowed as deduction) is amended by striking "80 percent" and inserting "50 percent".

(b) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking "80" and inserting "50".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14210. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

"(3) DENIAL OF DEDUCTION FOR CLUB DUES.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose. The preceding sentence shall not apply in the case of an airline or hotel club."

(b) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY.—Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: "This paragraph shall not apply for purposes of subsection (a)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14211. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—In the case of any publicly held corporation, no deduction shall be

allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) PUBLICLY HELD CORPORATION.—For purposes of this subsection, the term 'publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

"(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means any employee of the taxpayer if—

"(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or an individual acting in such a capacity, or

"(B) the total compensation for the taxable year of such employee is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

"(4) APPLICABLE EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'applicable employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.—The term 'applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.

"(C) OTHER PERFORMANCE-BASED COMPENSATION.—The term 'applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals but only if—

"(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more independent directors,

"(ii) the material terms under which the remuneration is to be paid, including the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

"(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

"(D) EXCEPTION FOR EXISTING BINDING CONTRACTS.—The term 'applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

"(E) REMUNERATION.—For purposes of this paragraph, the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and

"(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter.

For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

"(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS.—The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts which would otherwise be deductible for taxable years beginning on or after January 1, 1994.

SEC. 14212. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Sections 401(a)(17), 404(l), and 505(b)(7) are each amended—

(1) by striking "$200,000" in the first sentence and inserting "$150,000", and

(2) by striking the second sentence and inserting "In the case of years beginning after 1994, the Secretary shall adjust the $150,000 amount at the same time and in the same manner as under section 415(d), except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1994."

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking "$200,000" and inserting "$150,000".

(2) COST-OF-LIVING.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000 amount in paragraphs (3)(C) and (6)(D)(ii) at the same time and by the same amount as the adjustment to the $150,000 amount in section 401(a)(17)."

(c) CONFORMING AMENDMENT.—The heading for section 505(b)(7) is amended by striking "$200,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits accruing in plan years beginning after December 31, 1993.

SEC. 14213. MODIFICATION TO DEDUCTION FOR CERTAIN MOVING EXPENSES.

(a) REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—

(1) IN GENERAL.—Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting "or" at the end of subparagraph (C), by striking ", or" at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 217 is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Paragraph (2) of section 217(b) (as redesignated by subparagraph (A)) is amended—

(i) by striking the last sentence of subparagraph (A), and

(ii) by striking ", and by" in subparagraph (B) and all that follows down through the period at the end of subparagraph (B) and inserting a period.

(C) Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) subsection (b)(2)(A) shall be applied by substituting '$4,500' for '$1,500', and

"(C) subsection (b)(2)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500".' "

(D) Section 217 is amended by striking subsection (e).

(b) DEDUCTION DISALLOWED FOR MEAL EXPENSES.—Paragraph (1) of section 217(b) is amended—

(1) by striking "meals and lodging" in subparagraphs (B), (C) and (D) and inserting "lodging", and

(2) by adding at the end thereof the following new sentence:

"Such term shall not include any expenses for meals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after December 31, 1993.

SEC. 14214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR BASED ON LAST YEAR'S TAX.

(a) IN GENERAL.—Paragraph (1) of section 6654(d) (relating to amount of required estimated tax installments) is amended by striking subparagraphs (C), (D), (E), and (F) and by inserting the following new subparagraph:

"(C) LIMITATION ON USE OF PRECEDING YEAR'S TAX.—

"(i) IN GENERAL.—If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting '110 percent' for '100 percent'.

"(ii) SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting '$75,000' for '$150,000'.

"(iii) SPECIAL RULE.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e)."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply",

(2) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14215. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) IN GENERAL.—Subsections (a) (1) and (2) of section 86 (relating to social security and tier 1 railroad retirement benefits) are each amended by striking "one-half" and inserting "85 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

(c) ADDITIONAL RECEIPTS RETAINED IN GENERAL FUND.—

(1) Subsection (e) of section 121 of the Social Security Amendments of 1983 is amended by adding at the end the following new paragraph:

"(5) CERTAIN INCREASED RECEIPTS RETAINED IN GENERAL FUND.—In determining the amount appropriated to any payor fund under paragraph (1), there shall be excluded any increase in tax liability to the extent such increase is attributable to the amendments made to section 86 of the Internal Revenue Code of 1986 by the Revenue Reconciliation Act of 1993.".

(2) Paragraph (4) of subsection (e) of such section 121 is amended by redesignating sub-

paragraphs (A) and (B) as subparagraphs (B) and (C) and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) the total aggregate increase in tax liability under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of sections 86 and 871(a)(3) of such Code,".

PART II—PROVISIONS AFFECTING BUSINESSES

SEC. 14221. INCREASE IN TOP MARGINAL RATE UNDER SECTION 11.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking subparagraph (C) and inserting the following:

"(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

"(D) 35 percent of so much of the taxable income as exceeds $10,000,000.", and

(3) by adding at the end thereof the following new sentence: "In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.".

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) is amended by striking "34 percent" and inserting "35 percent".

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "65 percent".

(2) Subsection (a) of section 1201 is amended by striking "34 percent" each place it appears and inserting "35 percent".

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "35 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1993; except that the amendment made by subsection (c)(3) shall take effect on the date of the enactment of this Act.

SEC. 14222. DENIAL OF DEDUCTION FOR LOBBYING EXPENSES.

(a) DISALLOWANCE OF DEDUCTION.—Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

"(e) DENIAL OF DEDUCTION FOR CERTAIN LOBBYING AND POLITICAL EXPENDITURES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any amount paid or incurred—

"(A) in connection with influencing legislation,

"(B) for participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office, or

"(C) in connection with any attempt to influence the general public, or segments thereof, with respect to elections.

"(2) APPLICATION TO DUES.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for the portion of dues or other similar amounts (paid by the taxpayer with respect to an organization) which is allocable to the expenditures described in paragraph (1).

"(B) ALLOCATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), expenditures described in paragraph (1) shall be treated as paid out of dues or other similar amounts.

"(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—For purposes of this paragraph, if expenditures described in paragraph (1) exceed the dues or other similar amounts for any calendar year, such excess shall be treated as expenditures described in paragraph (1) which are paid or incurred by the organization during the following calendar year.

"(3) INFLUENCING LEGISLATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'influencing legislation' means—

"(i) any attempt to influence the general public, or segments thereof, with respect to legislation, and

"(ii) any attempt to influence any legislation through communication with any member or employee of the legislative body, or with any government official or employee who may participate in the formulation of the legislation.

"(B) EXCEPTION FOR CERTAIN TECHNICAL ADVICE.—The term 'influencing legislation' shall not include the providing of technical advice or assistance to a governmental body or to a committee or other subdivision thereof in response to a specific written request by such governmental entity to the taxpayer which specifies the nature of the advice or assistance requested.

"(C) LEGISLATION.—The term 'legislation' has the meaning given such term by section 4911(e)(2).

"(4) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in paragraph (1), paragraph (1) shall not apply to expenditures of the taxpayer in conducting such activities on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

"(5) CROSS REFERENCE.—

"For reporting requirements related to this subsection, see section 6050O."

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

"SEC. 6050O. RETURNS RELATING TO LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

"(a) REQUIREMENT OF REPORTING.—Each organization referred to in section 162(e)(2) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the names and addresses of persons paying dues to the organization, the amount of the dues paid by such person, and the portion of such dues which is nondeductible under section 162(e)(2).

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Any organization required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the organization, and

"(2) the dues paid by the person during the calendar year and the portion of such dues which is nondeductible under section 162(e)(2).

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the persons on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall be in such form as the Secretary may prescribe by regulations.

"(c) WAIVER.—The Secretary may waive the reporting requirements of this section with respect to any organization or class of organizations if the Secretary determines that such reporting is not necessary to carry out the purposes of section 162(e).

"(d) DUES.—For purposes of this section, the term 'dues' includes other similar amounts."

(2) PENALTIES.—

(A) RETURNS.—Subparagraph (A) of section 6724(d)(1) (defining information return) is amended by striking "or" at the end of clause (xi), by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma, by redesignating the clause (xii) relating to section 338(h)(10) as clause (xiii), by striking the period at the end of clause (xiii) (as so redesignated) and inserting ", or", and by adding at the end the following new clause:

"(xiv) section 6050O(a) (relating to information on nondeductible lobbying expenditures)."

(B) PAYEE STATEMENTS.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting ", or", and by adding at the end the following new subparagraph:

"(T) section 6050O(b) (relating to returns on nondeductible lobbying expenditures)."

(C) EXCESSIVE UNDERREPORTING.—Section 6721 (relating to failure to file correct information returns) is amended by adding at the end the following new subsection:

"(f) PENALTY IN CASE OF EXCESSIVE UNDERREPORTING ON NONDEDUCTIBLE DUES.—If the aggregate amount of nondeductible dues which is reported on the return required to be filed under section 6050O(a) for any calendar year is less than 75 percent of the aggregate amount required to be so reported—

"(1) subsections (b), (c), and (d) shall not apply, and

"(2) the penalty imposed under subsection (a) shall be equal to the product of—

"(A) the amount required to be reported which was not so reported, and

"(B) the highest rate of tax imposed by section 11 for taxable years beginning in such calendar year."

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050O. Returns relating to lobbying expenditures of certain organizations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14223. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and

which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B)(i) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and (ii) any obligation to acquire a security described in clause (i) if such obligation is entered into in the ordinary course of such trade or business and is not held for sale, and

"(C) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(C) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) except as provided in paragraph (3), the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS.—

(A) IN GENERAL.—If—

(i) a taxpayer used the last-in first-out (LIFO) method of accounting with respect to any qualified securities for its last taxable year ending before December 31, 1993, and

(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 20-taxable year period beginning with the first taxable year ending on or after December 31, 1993 (or, if shorter, the period of taxable years equal to the greater of 5 years or the number of taxable years before such first taxable year for which the taxpayer (or any predecessor) used such method of accounting).

(B) QUALIFIED SECURITY.—For purposes of this paragraph, the term "qualified security" means any security acquired—

(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

(I) the security is included on the National Association of Security Dealers Automated Quotation System,

(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

(III) as of the last day of the taxable year preceding the taxpayer's first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively

and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).

SEC. 14224. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending on or after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 14225. MODIFICATION OF CORPORATE ESTIMATED TAX RULES.

(a) INCREASE IN REQUIRED INSTALLMENT BASED ON CURRENT YEAR TAX.—

(1) IN GENERAL.—Clause (i) of section 6655(d)(1)(B) (relating to amount of required installment) is amended by striking "91 percent" each place it appears and inserting "100 percent".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6655 is amended—

(i) by striking paragraph (3), and

(ii) by striking "91 PERCENT" in the paragraph heading of paragraph (2) and inserting "100 PERCENT".

(B) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following:

"In the case of the following required installments:	**The applicable percentage is:**
1st	25
2nd	50
3rd	75
4th	100."

(C) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting '2 months' for '3 months',

"(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year."

(3) The last sentence of section 6655(f)(3)(A) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14226. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended—

(1) by striking "as provided in paragraph (3)" in paragraph (1) and inserting "as otherwise provided in this section";

(2) by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON CREDIT.—

"(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

"(B) CREDIT FOR INVESTMENT INCOME.—

"(i) IN GENERAL.—If—

"(I) the QPSII assets of the possession corporation for any taxable year, exceed

"(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

"(I) the excess determined under clause (i), bears to

"(II) the QPSII assets of the possession corporation for such taxable year.

"(C) CROSS REFERENCE.—

"For definitions and special rules applicable to this paragraph, see subsection (i)."

(b) DEFINITIONS AND SPECIAL RULES.—Section 936 is amended by adding at the end thereof the following new subsection:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year,or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) QPSII ASSETS.—For purposes of this section—

"(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

"(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

"(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

"(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(4) RELOCATED BUSINESSES.—

"(A) IN GENERAL.—In determining—

"(i) the possession corporation's qualified possession wages for any taxable year, and

"(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

"(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after May 13, 1993, or any addition after such date to an existing trade or business of such possession corporation unless—

"(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

"(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.

"(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

"(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

"(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c),

such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect.

"(8) TRANSITIONAL RULE.—If any possession corporation elects the benefits of this paragraph for any taxable year beginning in 1994 or 1995—

"(A) subsection (a)(4) shall not apply to such taxable year, and

"(B) the credit determined under subsection (a)(1) for such taxable year shall be the following percentage of the credit which would otherwise have been determined under such subsection:

"(i) 80 percent in the case of a taxable year beginning in 1994.

"(ii) 60 percent in the case of a taxable year beginning in 1995.

A possession corporation which elects the benefits of this paragraph shall be entitled to the benefits of paragraph (6) for taxes allocable to taxable income the tax on which is not offset by reason of this paragraph."

(c) MINIMUM TAX TREATMENT.—

(1) IN GENERAL.—Clause (ii) of section 56(g)(4)(C) (relating to treatment of special rule for certain dividends) is amended by striking "sections 936 and 921" and inserting "sections 936 (including subsection (a)(4) thereof) and 921".

(2) TREATMENT OF FOREIGN TAXES.—Clause (iii) of section 56(g)(4)(C) is amended by adding at the end thereof the following subclauses:

"(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 904(b) is amended by inserting before the period at the end thereof the following: "(without regard to subsection (a)(4) thereof)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14227. MODIFICATION TO LIMITATION ON DEDUCTION FOR CERTAIN INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(j) (defining disqualified interest) is amended to read as follows:

"(3) DISQUALIFIED INTEREST.—For purposes of this subsection, the term 'disqualified interest' means—

"(A) any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest, and

"(B) any interest paid or accrued by the taxpayer with respect to any indebtedness to a person who is not a related person if—

"(i) there is a disqualified guarantee of such indebtedness, and

"(ii) no gross basis tax is imposed by this subtitle with respect to such interest."

(b) DEFINITIONS.—Paragraph (6) of section 163(j) is amended by adding at the end thereof the following new subparagraphs:

"(D) DISQUALIFIED GUARANTEE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'disqualified guarantee' means any guarantee by a related person which is—

"(I) an organization exempt from taxation under this subtitle, or

"(II) a foreign person.

"(ii) EXCEPTIONS.—The term 'disqualified guarantee' shall not include a guarantee—

"(I) in any circumstances identified by the Secretary by regulation, where the interest on the indebtedness would have been subject to a net basis tax if the interest had been paid to the guarantor, or

"(II) if the taxpayer owns a controlling interest in the guarantor.

For purposes of subclause (II), except as provided in regulations, the term 'a controlling interest' means direct or indirect ownership of at least 80 percent of the total voting power and value of all classes of stock of a corporation, or 80 percent of the profit and capital interests in any other entity. For purposes of the preceding sentence, the rules of paragraphs (1) and (5) of section 267(c) shall apply; except that such rules shall also apply to interest in entities other than corporations.

"(iii) GUARANTEE.—Except as provided in regulations, the term 'guarantee' includes any arrangement under which a person (directly or indirectly through an entity or otherwise) assures, on a conditional or unconditional basis, the payment of another person's obligation under any indebtedness.

"(E) GROSS BASIS AND NET BASIS TAXATION.—

"(i) GROSS BASIS TAX.—The term 'gross basis tax' means any tax imposed by this subtitle which is determined by reference to the gross amount of any item of income without any reduction for any deduction allowed by this subtitle.

"(ii) NET BASIS TAX.—The term 'net basis tax' means any tax imposed by this subtitle which is a not a gross basis tax."

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 163(j)(5) is amended by striking "to a related person".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid or accrued in taxable years beginning after December 31, 1993.

PART III—FOREIGN TAX PROVISIONS

Subpart A—Current Taxation of Certain Earnings of Controlled Foreign Corporations

SEC. 14231. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) GENERAL RULE.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; and", and by adding at the end thereof the following new subparagraph:

"(C) the amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3))."

(b) AMOUNT OF INCLUSION.—Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 956 the following new section:

"SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the amount of the controlled foreign corporation's excess passive assets for such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(B) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation determined after the application of section 951(a)(1)(B).

"(b) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the amounts referred to in sections 316(a)(1) and 316(a)(2) (but reduced by distributions made during the taxable year), reduced by the earnings and profits described in section 959(c)(1).

"(c) EXCESS PASSIVE ASSETS.—For purposes of this section—

"(1) IN GENERAL.—The excess passive assets of any controlled foreign corporation for any taxable year is the excess (if any) of—

"(A) the average of the amounts of passive assets held by such corporation as of the close of each quarter of such taxable year, over

"(B) 25 percent of the average of the amounts of total assets held by such corporation as of the close of each quarter of such taxable year.

For purposes of the preceding sentence, the amount taken into account with respect to any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(2) PASSIVE ASSET.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the term 'passive asset' means any asset held by the controlled foreign corporation which produces passive income (as defined in section 1296(b)) or is held for the production of such income.

"(B) COORDINATION WITH SECTION 956.—The term 'passive asset' shall not include any United States property (as defined in section 956).

"(3) LOOK-THRU RULES MADE APPLICABLE.—For purposes of this subsection, the rules of section 1296(c) shall apply.

"(4) LEASING RULES MADE APPLICABLE.—For purposes of this subsection, the rules of section 1297(d) shall apply.

"(d) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION DURING TAXABLE YEAR.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(1) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation, and

"(2) the amount of such corporation's excess passive assets for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(3) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

"(e) TRANSITION RULE.—In the case of any taxable year of a controlled foreign corporation beginning after September 30, 1993, and before October 1, 1997, the amount determined under subsection (a) shall be the applicable percentage (determined under the following table) of the amount which would otherwise be determined under such subsection:

"In the case of a taxable year beginning during the 1-year period beginning on:	**The applicable percentage is:**
October 1, 1993	20
October 1, 1994	25
October 1, 1995	35
October 1, 1996	50.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisions of this section through reorganizations or otherwise."

(c) PREVIOUSLY TAXED INCOME RULES.—

(1) IN GENERAL.—Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by striking "or" at the end of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) such amounts would, but for this subsection, be included under section 951(a)(1)(C) in the gross income of,".

(2) ALLOCATION RULES.—

(A) Subsection (a) of section 959 is amended by adding at the end thereof the following new sentence: "The rules of subsection (c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraphs (2) and (3) of this subsection.".

(B) Section 959 is amended by adding at the end thereof the following new subsection:

"(f) ALLOCATION RULES FOR CERTAIN INCLUSIONS.—

"(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) or (C) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).

"(2) TREATMENT OF DISTRIBUTIONS.—In applying this section, actual distributions shall be taken into account before amounts that would be included under subparagraphs (B) and (C) of section 951(a)(1) (determined without regard to this section)."

(C) Paragraph (1) of section 959(c) is amended to read as follows:

"(1) first to the aggregate of—

"(A) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section), and

"(B) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(C) (or which would have been included except for subsection (a)(3) of this section),

with any distribution being allocated between earnings and profits described in subparagraph (A) and earnings and profits described in subparagraph (B) proportionately on the basis of the respective amounts of such earnings and profits,".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a) and (b) of section 959 are each amended by striking "earnings and profits for a taxable year" and inserting "earnings and profits".

(B) Paragraph (2) of section 959(c) is amended to read as follows:

"(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under subparagraph (B) or (C) of section 951(a)(1) because of the exclusions in paragraphs (2) and (3) of subsection (a) of this section), and"

(C) Subsection (b) of section 989 is amended by striking "section 951(a)(1)(B)" and inserting "subparagraph (B) or (C) of section 951(a)(1)".

(d) MODIFICATIONS TO PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) ADJUSTED BASIS USED IN CERTAIN DETERMINATIONS.—Subsection (a) of section 1296 is amended by striking the material following paragraph (2) and inserting the following:

"In the case of a controlled foreign corporation (or any other foreign corporation if such corporation so elects), the determination under paragraph (2) shall be based on the adjusted bases (as determined for purposes of computing earnings and profits) of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Subsection (b) of section 1297 is amended by adding at the end thereof the following new paragraph:

"(9) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Any amount included in gross income under subparagraph (B) or (C) of section 951(a)(1) shall be treated as a distribution received with respect to the stock."

(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—Subsection (b) of section 1296 is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—

"(A) IN GENERAL.—In the case of any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), the term 'passive income' does not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act. To the extent provided in regulations, such term shall not include any income derived in the active conduct of a securities business by a controlled foreign corporation which is not so registered.

"(B) APPLICATION OF LOOK-THRU RULES.—For purposes of paragraph (2)(C), rules similar to the rules of subparagraph (A) shall apply in determining whether any income of a related person (whether or not a corporation) is passive income.

"(C) LIMITATION.—The preceding provisions of this paragraph shall only apply in the case of persons who are United States shareholders (as defined in section 951(b)) in the controlled foreign corporation."

(4) LEASING RULES.—Section 1297 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of this part:

"(1) IN GENERAL.—Any tangible personal property with respect to which a foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF ADJUSTED BASIS.—

"(A) IN GENERAL.—The adjusted basis of any asset to which paragraph (1) applies shall be the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in section 954(d)(3)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this section."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 14232. MODIFICATION TO TAXATION OF INVESTMENT IN UNITED STATES PROPERTY.

(a) GENERAL RULE.—Section 956 (relating to investment of earnings in United States property) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

"(b) ADJUSTMENTS FOR CERTAIN DISTRIBUTIONS; OTHER SPECIAL RULES.—

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' has the meaning given to such term by section 956A(b).

"(2) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—Rules similar to the rules of section 956A(d) shall apply for purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 951(a)(1) is amended to read as follows:

"(B) the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and"

(2) Subsection (a) of section 951 is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(d) STUDY OF INVESTMENTS BY CONTROLLED FOREIGN CORPORATIONS IN UNITED STATES PROPERTY.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the tax treatment of investments by controlled foreign corporations in obligations of United States persons other than corporations. Such study shall include the Secretary's views as to whether the treatment of such investments should be changed, along with a discussion of the merits and consequences of any such change.

(2) REPORT.—Not later than December 31, 1993, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

SEC. 14233. OTHER MODIFICATIONS TO SUB PART F.

(a) SAME COUNTRY EXCEPTION NOT TO APPLY TO CERTAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 954(c) (relating to certain income received from related persons) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN DIVIDENDS.—Subparagraph (A)(i) shall not apply to any dividend with respect to any stock which is attributable to earnings and profits of the distributing corporation accumulated during any period during which the person receiving such dividend did not hold such stock."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(b) SIMPLIFICATION OF SECTION 960(b).—

(1) IN GENERAL.—Subsection (b) of section 960 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and

(B) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benefits of subpart A of this part for a taxable year beginning after September 30, 1993, in which he was required under section 951(a) to include any amount in his gross income, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States,

"(B) chooses to have the benefits of subpart A of this part for any taxable year in which he receives 1 or more distributions or amounts which are excludable from gross income under section 959(a) and which are attributable to amounts included in his gross income for taxable years referred to in subparagraph (A), and

"(C) for the taxable year in which such distributions or amounts are received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distributions or amounts,

the limitation under section 904 for the taxable year in which such distributions or amounts are received shall be increased by the lesser of the amount of such taxes paid, or deemed paid, or accrued with respect to such distributions or amounts or the amount in the excess limitation account as of the beginning of such taxable year.

"(2) EXCESS LIMITATION ACCOUNT.—

"(A) ESTABLISHMENT OF ACCOUNT.—Each taxpayer meeting the requirements of paragraph (1)(A) shall establish an excess limitation account. The opening balance of such account shall be zero.

"(B) INCREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, the taxpayer shall increase the amount in the excess limitation account by the excess (if any) of—

"(i) the amount by which the limitation under section 904(a) for such taxable year was increased by reason of the total amount of the inclusions in gross income under section 951(a) for such taxable year, over

"(ii) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for such taxable year and which would not have been allowable but for the inclusions in gross income described in clause (i).

Proper reductions in the amount added to the account under the preceding sentence for any taxable year shall be made for any increase in the credit allowable under section 901 for such taxable year by reason of a carryback if such increase would not have been allowable but for the inclusions in gross income described in clause (i).

"(C) DECREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, for which the limitation under section 904 was increased under paragraph (1), the taxpayer shall reduce the amount in the excess limitation account by the amount of such increase.

"(3) DISTRIBUTIONS OF INCOME PREVIOUSLY TAXED IN YEARS BEGINNING BEFORE OCTOBER 1, 1993.—If the taxpayer receives a distribution or amount in a taxable year beginning after September 30, 1993, which is excluded from gross income under section 959(a) and is attributable to any amount included in gross

income under section 951(a) for a taxable year beginning before October 1, 1993, the limitation under section 904 for the taxable year in which such amount or distribution is received shall be increased by the amount determined under this subsection as in effect on the day before the date of the enactment of the Revenue Reconcilation Act of 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1993.

Subpart B—Allocation of Research and Experimental Expenditures

SEC. 14234. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Subparagraph (B) of section 864(f)(1) (relating to allocation of research and experimental expenditures) is amended by striking "64 percent" each place it appears and inserting "50 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 864 is amended by striking paragraph (5) and inserting the following:

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to the determination of whether any expenses are attributable to activities conducted in the United States or outside the United States and regulations providing such adjustments to the provisions of this subsection as may be appropriate in the case of cost-sharing arrangements and contract research."

(2) Subparagraph (D) of section 864(f)(4) is amended by striking "subparagraph (C)" and inserting "subparagraph (B) or (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act; except that such amendments shall not apply in the case of any taxable year to which Revenue Procedure 92-56 applies or would apply if the taxpayer elected the benefits of such Revenue Procedure.

Subpart C—Other Provisions

SEC. 14235. REPEAL OF CERTAIN EXCEPTIONS FOR WORKING CAPITAL.

(a) PROVISIONS RELATING TO OIL AND GAS INCOME.—

(1) AMENDMENTS TO SECTION 907.—

(A) Paragraph (1) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(B) Paragraph (2) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(2) SEPARATE APPLICATION OF FOREIGN TAX CREDIT.—Clause (iii) of section 904(d)(2)(A) is amended by inserting "and" at the end of subclause (II), by striking ", and" at the end of subclause (III) and inserting a period, and by striking subclause (IV).

(3) TREATMENT UNDER SUBPART F.—

(A) Paragraph (1) of section 954(g) is amended by adding at the end thereof the following new flush sentence:

Such term shall not include any foreign personal holding company income (as defined in subsection (c)).".

(B) Paragraph (8) of section 954(b) is amended by striking "(1),".

(b) TREATMENT OF SHIPPING INCOME.—Subsection (f) of section 954 is amended by adding at the end thereof the following new sentence: "Such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14236. MODIFICATIONS OF ACCURACY-RELATED PENALTY.

(a) THRESHOLD REQUIREMENT.—Clause (ii) of section 6662(e)(1)(B) (relating to substantial valuation misstatement under chapter 1) is amended to read as follows:

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts."

(b) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—Subparagraph (B) of section 6662(e)(3) is amended to read as follows:

"(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

"(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

"(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

"(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

"(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

"(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States."

(b) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—Paragraph (3) of section 6662(e) is amended by adding at the end thereof the following new subparagraph:

"(D) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion."

(c) CONFORMING AMENDMENT.—Clause (iii) of section 6662(h)(2)(A) is amended to read as follows:

"(iii) in paragraph (1)(B)(ii)—

"(I) '$20,000,000' for '$5,000,000', and

"(II) '20 percent' for '10 percent'."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14237. DENIAL OF PORTFOLIO INTEREST EXEMPTION FOR CONTINGENT INTEREST.

(a) GENERAL RULE.—

(1) Subsection (h) of section 871 (relating to repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'portfolio interest' shall not include—

"(i) any interest if the amount of such interest is determined by reference to—

"(I) any receipts, sales or other cash flow of the debtor or a related person,

"(II) any income or profits of the debtor or a related person,

"(III) any change in value of any property of the debtor or a related person, or

"(IV) any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

"(ii) any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

"(B) RELATED PERSON.—The term 'related person' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

"(C) EXCEPTIONS.—Subparagraph (A)(i) shall not apply to—

"(i) any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

"(ii) any amount of interest solely by reason of the fact that the interest is paid with respect to nonrecourse or limited recourse indebtedness,

"(iii) any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

"(iv) any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest,

"(v) any amount of interest determined by reference to—

"(I) changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

"(II) the yield on property described in subclause (I), other than a debt instrument that pays interest described in subparagraph

(A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

"(III) changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and

"(vi) any other type of interest identified by the Secretary by regulation.

"(D) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term—

"(i) which was issued on or before April 7, 1993, or

"(ii) which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued."

(2) Subsection (c) of section 881 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 871(h)(2)(B) is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(2) Clause (ii) of section 881(c)(2)(B) is amended by striking "section 871(h)(4)" and inserting "section 871(h)(5)".

(3) Paragraph (6) of section 881(c) (as redesignated by subsection (a)) is amended by striking "section 871(h)(5)" each place it appears and inserting "section 871(h)(6)".

(4) Paragraph (9) of section 1441(c) is amended by striking "section 871(h)(3)" and inserting "section 871(h)(3) or (4)".

(5) Subsection (a) of section 1442 is amended—

(A) by striking "871(h)(3)" and inserting "871(h)(3) or (4)", and

(B) by striking "881(c)(3)" and inserting "881(c)(3) or (4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after December 31, 1993.

SEC. 14238. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS.

Section 7701 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) REGULATIONS RELATING TO CONDUIT ARRANGEMENTS.—The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title."

PART IV—ENERGY TAX PROVISIONS

Subpart A—Energy Tax Based on Btu Content

SEC. 14241. IMPOSITION OF ENERGY TAX BASED ON BTU CONTENT.

(a) IN GENERAL.—Chapter 36 (relating to other excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—ENERGY TAXES

"Part I. Imposition of tax on refined petroleum products.

"Part II. Imposition of taxes on natural gas, coal, and electricity.

"Part III. Tax rates.

"Part IV. Use taxes; floor stocks taxes; administrative provisions; definitions and special rules.

"Part V. Tax on imported products with high embedded energy costs.

"PART I—IMPOSITION OF TAX ON REFINED PETROLEUM PRODUCTS

"Sec. 4441. Taxable refined petroleum products.

"Sec. 4442. Tax-free transfers and uses; refunds for certain sales and uses.

"SEC. 4441. TAXABLE REFINED PETROLEUM PRODUCTS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax on any taxable refined petroleum product—

"(A) removed from any refinery in the United States,

"(B) removed from any terminal in the United States,

"(C) entered into the United States for consumption, use, or warehousing, and

"(D) sold to any person who is not registered under section 4453(d).

No tax shall be imposed by subparagraph (D) if there was a prior taxable removal or entry under subparagraph (A), (B), or (C).

"(2) EXCEPTION FOR BULK TRANSFERS TO REGISTERED REFINERIES OR TERMINALS.—The tax imposed by paragraph (1) shall not apply to any removal or entry of any taxable refined petroleum product transferred in bulk to a refinery or terminal if the person removing or entering such product and the operator of such refinery or terminal are registered under section 4453(d).

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on each barrel of any taxable refined petroleum product shall be the sum of—

"(A) the base rate, and

"(B) the supplemental rate,

multiplied by the applicable per unit Btu factor for such product.

"(2) ONLY BASE RATE APPLIES TO QUALIFIED HEATING OIL, DIESEL FUEL USED ON FARMS, AND LIQUEFIED PETROLEUM GASES.—

"(A) IN GENERAL.—Subparagraph (B) of paragraph (1) shall not apply to—

"(i) qualified heating oil,

"(ii) qualified farm diesel fuel, and

"(iii) any liquefied petroleum gas.

"(B) QUALIFIED HEATING OIL.—For purposes of subparagraph (A), the term 'qualified heating oil' means No. 2 distillate fuel oil (including any kerosene in a mixture with such oil) which—

"(i) is indelibly dyed (or dyed and marked) in accordance with regulations that the Secretary shall prescribe, and

"(ii) is delivered (or is to be delivered) to any building to heat the building.

"(C) QUALIFIED FARM DIESEL FUEL.—For purposes of subparagraph (A), the term 'qualified farm diesel fuel' means any diesel fuel which—

"(i) is indelibly dyed (or dyed and marked) in accordance with regulations that the Secretary shall prescribe, and

"(ii) is used (or to be used) on a farm for farming purposes (determined under section 6420(c)).

"(c) LIABILITY FOR TAX.—The determination of who is liable for the tax imposed by subsection (a) shall be made under the rules applicable in determining liability for the tax imposed by section 4081. Section 4103 shall apply to the tax imposed by subsection (a) in the same manner as it applies to the tax imposed by section 4081.

"(d) TAXABLE REFINED PETROLEUM PRODUCT.—For purposes of this subchapter, the term 'taxable refined petroleum product' means—

"(1) aviation gasoline,

"(2) motor gasoline (including blending components of gasoline),

"(3) kerosene-type jet fuel,

"(4) naphtha-type jet fuel,

"(5) distillate fuel oil,

"(6) kerosene,

"(7) residual fuel oil,

"(8) petroleum coke,

"(9) butane,

"(10) propane,

"(11) ethanol,

"(12) methanol, and

"(13) to the extent provided in regulations prescribed by the Secretary, any other refined petroleum product.

"(e) APPLICABLE PER UNIT BTU FACTOR.—For purposes of this subchapter—

"(1) IN GENERAL.—

"In the case of:	**The applicable per unit Btu factor is the following amount per barrel:**
Aviation gasoline ..	5.048
Motor gasoline (including blending components of gasoline)	5.267
Kerosene-type jet fuel	5.670
Naphtha-type jet fuel	5.355
Distillate fuel oil ...	5.852
Kerosene	5.670
Residual fuel oil	6.486
Petroleum coke	6.024
Ethanol	3.500
Methanol	3.500
Butane	4.326
Propane	3.836

"(2) MIXTURES.—Any mixture which includes a taxable refined petroleum product shall be treated as specified in paragraph (1) and—

"(A) if more than 1 such product is included in such mixture, the applicable per unit Btu factor shall be the weighted average of the applicable per unit Btu factors for the taxable refined petroleum products included in the mixture, and

"(B) if any substance is included in the mixture which is not a taxable refined petroleum product, the applicable per unit Btu factor for the portion of such mixture's volume which is attributable to such substance shall be zero.

"(3) CROSS REFERENCE.—

"For authority to adjust per unit Btu amounts, see section 4453(e).

"(f) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) REFINERY.—The term 'refinery' means any facility—

"(A) at which crude oil or any petroleum product is refined,

"(B) which is a natural gas processing or fractionation plant, or

"(C) at which ethanol or methanol is produced for use as a fuel.

"(2) BLENDING COMPONENTS.—The term 'blending components' does not include ethanol or methanol.

"(3) ETHANOL AND METHANOL.—The terms 'ethanol' and 'methanol' include ether derivatives of ethanol and methanol, respectively.

"(4) BARREL.—The term 'barrel' means 42 United States gallons determined with such temperature adjustments as the Secretary

may prescribe. In the case of a taxable refined petroleum product which is not a liquid, the term 'barrel' means a volume determined under regulations prescribed by the Secretary on the basis of an equivalence to a barrel of oil.

"(g) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable refined petroleum product establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such product, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4442. TAX-FREE TRANSFERS AND USES; REFUNDS FOR CERTAIN SALES AND USES.

"(a) TAX-FREE SALES, ETC.—

"(1) IN GENERAL.—No tax shall be imposed by section 4441—

"(A) on any taxable refined petroleum product which is used in an exempt use by the person otherwise liable for such tax, or

"(B) by reason of a removal, entry, or sale of such product for an exempt use by the person receiving the product.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means—

"(A) export,

"(B) any use in the generation of electricity,

"(C) any qualified feedstock use, and

"(D) any use in the manufacture or production of synthetic natural gas or any other synthetic fuel specified in regulations prescribed by the Secretary.

"(3) QUALIFIED FEEDSTOCK USE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any qualified feedstock use, only the exempt percentage of any taxable refined petroleum product shall be exempt from tax under paragraph (1).

"(B) QUALIFIED FEEDSTOCK USE.—The term 'qualified feedstock use' means use of any taxable refined petroleum product in the manufacture or production of any substance.

"(C) EXEMPT PERCENTAGE.—For purposes of subparagraph (A), the term 'exempt percentage' means the percentage (determined on the basis of chemical structure) of the taxable refined petroleum product which is incorporated into the substance manufactured or produced.

"(4) REGISTRATION REQUIREMENTS.—To the extent provided by the Secretary, paragraph (1) shall not apply to any taxable event unless—

"(A) such persons with respect to such event as the Secretary may specify are registered under section 4453(d), and

"(B) in the case of a sale, the purchaser's name and address, and the purchaser's registration number for purposes of this subchapter, are provided to the seller.

"(5) REFUNDS OF PRODUCTS PURCHASED TAXPAID.—If tax was imposed under section 4441 with respect to any taxable refined petroleum product and such product is used by any person in an exempt use, the Secretary shall pay to such person an amount equal to the tax so imposed (or, in the case of a qualified feedstock use, the exempt percentage of the tax so imposed).

"(6) CROSS REFERENCE.—

"For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

"(b) REFUNDS TO ULTIMATE VENDORS IN CERTAIN CASES.—Under regulations prescribed by the Secretary—

"(1) HEATING OIL.—If the supplemental rate of tax was imposed under section 4441 with respect to any No. 2 distillate fuel oil (including any kerosene in a mixture with such oil) and such fuel oil is delivered to any building to heat the building, the Secretary shall pay to the ultimate vendor of such fuel oil an amount equal to the product of the supplemental rate and the applicable per unit Btu factor per barrel of the fuel oil (and kerosene) so delivered.

"(2) INTERNATIONAL COMMERCIAL TRANSPORTATION.—

"(A) IN GENERAL.—If tax was imposed under section 4441 with respect to any taxable refined petroleum product and such product is sold for use or used by the purchaser for international commercial transportation, the Secretary shall pay to the ultimate vendor of such product an amount equal to the tax so imposed.

"(B) INTERNATIONAL COMMERCIAL TRANSPORTATION.—For purposes of subparagraph (A), the term 'international commercial transportation' means transportation in the trade or business of transporting persons or property for hire—

"(i) by any vessel actually engaged in foreign trade or trade between the United States and any of its possessions, or

"(ii) by aircraft from a point within the United States to a point outside the United States and outside the 225-mile zone (as defined in section 4262(c)(2)).

"(3) VENDOR REQUIREMENTS.—A payment may be made under this subsection to a vendor only if the vendor establishes that such vendor—

"(A)(i) has not included the tax in the price of the product, and

"(ii) has not collected the tax from the purchaser of such product, or

"(B) has agreed to repay the tax to the purchaser.

"(c) PRODUCTION OF CALCINED COKE.—If tax was imposed under section 4441 with respect to any petroleum product and such product is used by any person to produce calcined coke, the Secretary shall pay to such person an amount equal to the sum of the base rate and the supplemental rate for each million Btu's of the actual Btu content of the coke produced.

"(d) CROSS REFERENCE.—

"For refunds of gasoline and diesel fuel used on farms, see sections 6420(a) and 6427(m).

"PART II—IMPOSITION OF TAXES ON NATURAL GAS, COAL, AND ELECTRICITY

"Sec. 4444. Natural gas.

"Sec. 4445. Coal.

"Sec. 4446. Electricity.

"SEC. 4444. NATURAL GAS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax on natural gas—

"(A) removed from any pipeline in the United States,

"(B) entered into the United States for consumption, use, or warehousing, and

"(C) entered into any pipeline the operator of which is not registered under section 4453(d).

"(2) EXCEPTION FOR TRANSFERS TO REGISTERED PIPELINES.—

"(A) PIPELINE TO PIPELINE TRANSFERS.—The tax imposed by paragraph (1) shall not apply to any removal from a pipeline to another pipeline if the operators of both pipelines are registered under section 4453(d).

"(B) ENTRY INTO UNITED STATES TO PIPELINE TRANSFERS.—The tax imposed by paragraph (1) shall not apply to any entry into the United States if—

"(i) pursuant to such entry the natural gas is entered into any pipeline, and

"(ii) the operator of such pipeline is registered under section 4453(d).

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on each MCF of natural gas shall be the base rate multiplied by the applicable per unit Btu factor.

"(2) AUTHORITY TO USE ACTUAL BTU CONTENT.—To the extent provided in regulations prescribed by the Secretary, the amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the natural gas.

"(c) LIABILITY FOR, AND COLLECTION OF, TAX.—

"(1) IN GENERAL.—The tax imposed by subsection (a)(1)(A)—

"(A) shall be paid by the person receiving the natural gas, and

"(B) shall be collected by the operator of the pipeline.

"(2) IMPORTATION.—The tax imposed by subsection (a)(1)(B) shall be paid by the person entering the natural gas into the United States for consumption, use, or warehousing.

"(3) ENTRY INTO UNREGISTERED PIPELINES.—The tax imposed by subsection (a)(1)(C) shall be paid by the person entering the natural gas.

"(4) COLLECTION OF TAX.—

"(A) IN GENERAL.—In the case of natural gas removed from a local distribution system, the operator shall also be liable for any tax imposed by subsection (a) which is not collected from the person receiving the natural gas.

"(B) EXCEPTION FOR LARGE USERS FROM LOCAL DISTRIBUTION SYSTEMS.—Subparagraph (A) shall not apply to natural gas received by any person during any month from a local distribution system if the value (exclusive of taxes) of the natural gas received by such person from such system during the 12-month period ending before such month exceeded $3,500,000.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) APPLICABLE PER UNIT BTU FACTOR.—

"(A) IN GENERAL.—The applicable per unit Btu factor with respect to natural gas is 1.031 per MCF.

"(B) CROSS REFERENCE.—

"For authority to adjust per unit Btu amounts, see section 4453(e).

"(2) PIPELINE.—The term 'pipeline' includes a local distribution system. To the extent provided in regulations prescribed by the Secretary, such term includes a gathering system.

"(3) NATURAL GAS.—The term 'natural gas' includes synthetic natural gas produced from coal or from any petroleum product.

"(4) MCF.—The term 'MCF' means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

"(e) EXEMPTION FROM TAX FOR CERTAIN USES.—

"(1) IN GENERAL.—No tax shall be imposed by subparagraph (A) or (B) of subsection (a)(1)—

"(A) on any natural gas which is used in an exempt natural gas use by the person otherwise liable for such tax, or

"(B) by reason of a removal or entry of natural gas for an exempt natural gas use by the person receiving the natural gas.

"(2) EXEMPT NATURAL GAS USE.—For purposes of this subsection, the term 'exempt natural gas use' means—

"(A) use in the generation of electricity,

"(B) any qualified feedstock use, or

"(C) use in enhanced heavy oil recovery.

"(3) QUALIFIED FEEDSTOCK USE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any qualified feedstock use, only the exempt percentage of the natural gas shall be exempt from tax under paragraph (1).

"(B) QUALIFIED FEEDSTOCK USE; EXEMPT PERCENTAGE.—The terms 'qualified feedstock use' and 'exempt percentage' have the respective meanings given such terms by section 4442(a)(3) determined by substituting 'natural gas' for 'taxable refined petroleum product' each place it appears.

"(4) ENHANCED HEAVY OIL RECOVERY.—For purposes of this subsection—

"(A) IN GENERAL.—Natural gas shall be treated as used in enhanced heavy oil recovery if such gas is used in an enhanced oil recovery project in the United States for the recovery of oil having a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(B) ENHANCED OIL RECOVERY PROJECT.—For purposes of subparagraph (A), the term 'enhanced oil recovery project' means any project which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered.

"(5) REGISTRATION REQUIREMENTS.—To the extent provided by the Secretary, paragraph (1) shall not apply to any taxable event unless the requirements of section 4442(a)(4) are met with respect to such event.

"(6) REFUNDS OF NATURAL GAS PURCHASED TAX-PAID.—If tax was imposed by this section with respect to any natural gas and such gas is used by any person in an exempt natural gas use, the Secretary shall pay to such person an amount equal to the tax so imposed (or, in the case of a qualified feedstock use, the exempt percentage of the tax so imposed).

"(7) CROSS REFERENCE.—

"For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

"(f) METHANE RECOVERED FROM BIOMASS OR COAL MINING.—

"(1) IN GENERAL.—If—

"(A) methane is recovered from biomass or in conjunction with room and pillar or long wall coal mining operations, and

"(B) such methane is entered into any natural gas pipeline,

the Secretary shall pay to the person so entering such methane an amount equal to the amount of tax which would be imposed under this section on such methane if such entry were a taxable event under such section.

"(2) RECAPTURE OF CREDIT FOR METHANE RECOVERED FROM COAL MINING IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the Secretary has made a payment under paragraph (1) to any person with respect to methane recovered from coal mining operations before the date the actual mining commences, and

"(ii)(I) such person disposes of his interest in such coal mining operations, or

"(II) the actual mining commences more than 10 years after the date such methane was first recovered,

then the tax under chapter 1 of such person for the taxable year in which such disposition occurs (or, in a case to which clause (ii)(II) applies, such 10th year ends) shall be increased by the aggregate of such payments to such person plus interest at the underpayment rate under section 6621 for the periods beginning on the dates such payments were made.

"(B) NO FURTHER PAYMENTS UNTIL MINING COMMENCES.—If there is an increase in tax under subparagraph (A) with respect to any payments for methane recovered from any site, no further payments shall be made under this subsection with respect to methane recovered from such site until actual mining commences at such site.

"(C) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this paragraph shall not be taken into account in determining the amount of any credit allowable under part IV of subchapter A of chapter 1 or in determining the amount of the tax imposed by section 55.

"(D) CHANGES IN FORM OF BUSINESS DISREGARDED.—A person shall not be treated as disposing of an interest in coal mining operations by reason of a mere change in the form of conducting the trade or business so long as the coal mining operations are retained in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(g) REFUNDS IN CERTAIN CASES.—A rule similar to the rule of section 4441(g) shall apply to the tax imposed by this section.

"SEC. 4445. COAL.

"(a) GENERAL RULE.—There is hereby imposed a tax on coal received at any facility in the United States for use as a fuel at such facility.

"(b) RATE OF TAX.—The amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the coal. For purposes of the preceding sentence, the actual Btu content of any coal shall be determined under procedures prescribed by the Secretary.

"(c) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the tax imposed by subsection (a) shall be paid by the operator of the facility.

"(2) COAL RECEIVED AT SMALL FACILITIES.—If the ultimate vendor of coal received at a facility receives a certificate from the operator of such facility (or otherwise determines) that such facility received less than 1,000 tons of coal during the preceding calendar year, the tax imposed by subsection (a) shall be paid by the ultimate vendor.

"(3) RESIDENTIAL PROPERTY.—

"(A) IN GENERAL.—In the case of coal received at a residential property, the tax imposed by subsection (a) shall be paid by the ultimate vendor.

"(B) RESIDENTIAL PROPERTY.—For purposes of this paragraph, the term 'residential property' means any building which contains 1 or more dwelling units used for residential purposes other than on a transient basis.

"(d) EXEMPTION FROM TAX FOR CERTAIN USES.—

"(1) IN GENERAL.—No tax shall be imposed by subsection (a) on coal received for—

"(A) use in the generation of electricity,

"(B) any qualified feedstock use,

"(C) use in enhanced heavy oil recovery (as determined under section 4444(e)(4) by substituting 'coal' for 'natural gas'),

"(D) use in the manufacture or production of synthetic natural gas or any other synthetic fuel specified in regulations prescribed by the Secretary, or

"(E) any use in a vessel used in international commercial transportation (as defined in section 4442(b)(2)(B)(i)).

"(2) QUALIFIED FEEDSTOCK USE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any qualified feedstock use, only the exempt percentage of the coal shall be exempt from tax under paragraph (1).

"(B) QUALIFIED FEEDSTOCK USE; EXEMPT PERCENTAGE.—The terms 'qualified feedstock use' and 'exempt percentage' have the respective meanings given such terms by section 4442(a)(3) determined by substituting 'coal' for 'taxable refined petroleum product' each place it appears.

"(3) CROSS REFERENCE.—

"For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

"(e) PRODUCTION OF COKE FOR STEEL.—If tax was imposed under this subchapter with respect to any coal and such coal is used by any person to produce coke for use in the reduction of iron-bearing ores in the iron and steel process, the Secretary shall pay to such person an amount equal to the base rate for each million Btu's of the actual Btu content of the coke produced.

"SEC. 4446. ELECTRICITY.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) the sale of electricity to ultimate users in the United States, and

"(2) the use of electricity in the United States which was not subject to tax under paragraph (1).

"(b) RATE OF TAX.—The amount of the tax imposed by subsection (a) on each kilowatt hour of electricity sold or used during any month shall be the deemed Btu tax per kilowatt hour applicable for such month—

"(1) to the seller in the case of the tax imposed by subsection (a)(1), and

"(2) to the user in the case of the tax imposed by subsection (a)(2).

"(c) LIABILITY FOR, AND COLLECTION OF, TAX.—

"(1) SALES.—The tax imposed by subsection (a)(1)—

"(A) shall be paid by the person to whom the electricity is sold, and

"(B) shall be collected by the seller.

"(2) USES.—The tax imposed by subsection (a)(2) shall be paid by the person using the electricity.

"(3) COLLECTION OF TAX.—

"(A) IN GENERAL.—The seller shall also be liable for the tax imposed by subsection (a)(1) which is not collected from the person to whom the electricity is sold.

"(B) EXCEPTION FOR LARGE USERS.—Subparagraph (A) shall not apply to electricity sold to any person during any month by the seller if the amount paid by such person for electricity (exclusive of taxes) sold by such seller during the 12-month period ending before such month exceeded $3,500,000.

"(d) DEEMED BTU TAXES.—For purposes of this section—

"(1) IN GENERAL.—The deemed Btu taxes per kilowatt hour of electricity applicable to any person for any month shall be the weighted average of—

"(A) the deemed Btu taxes per kilowatt hour of electricity generated at each facility of the person during the base period, and

"(B) the deemed Btu taxes per kilowatt hour of electricity purchased by such person during the base period.

For purposes of this paragraph, the term 'base period' means, with respect to any month, the 2d month preceding such month.

"(2) DEEMED BTU TAXES PER FACILITY.—The deemed Btu taxes per kilowatt hour of electricity generated at any facility during any month shall be determined by dividing—

"(A) the deemed Btu taxes on fuels used at such facility to generate electricity during such month by

"(B) the aggregate kilowatt hours of electricity generated at such facility during such month.

"(3) DEEMED BTU TAXES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'deemed Btu taxes' means, with respect to electricity, the aggregate taxes which would have been imposed by this subchapter on the fuels used to generate such electricity—

"(i) but for the exemption of such fuels from such taxes, and

"(ii) determined as of the month for which the rate of the tax imposed by subsection (a) is being determined.

"(B) ELECTRICITY GENERATED BY HYDROPOWER OR NUCLEAR POWER.—The deemed Btu taxes per kilowatt hour of electricity generated by hydropower or nuclear power shall be equal to the base rate multiplied by a fraction the numerator of which is 10,335 and the denominator of which is 1,000,000.

"(C) IMPORTED ELECTRICITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the deemed Btu taxes per kilowatt hour of electricity transmitted into the United States shall be determined as if such electricity were generated by hydropower.

"(ii) LOWER DEEMED BTU TAX MAY BE ESTABLISHED.—If the importer establishes to the satisfaction of the Secretary the amount which would be the deemed Btu taxes per kilowatt hour of the electricity if the electricity were generated in the United States, such amount shall be used in lieu of the amount under clause (i).

"(D) ELECTRICITY GENERATED BY RENEWABLE SOURCES.—The deemed Btu taxes per kilowatt hour of electricity generated from any renewable source shall be zero. For purposes of the preceding sentence, the term 'renewable source' means solar energy, wind energy, any geothermal deposit, biomass, municipal solid waste, and tires.

"(4) SELLERS TO SPECIFY DEEMED BTU TAXES.—

"(A) IN GENERAL.—In the case of electricity which is sold other than to the ultimate user, the seller shall certify to the purchaser the deemed Btu taxes per kilowatt hour of the electricity sold.

"(B) FAILURE TO CERTIFY.—If the seller fails to so certify—

"(i) the tax imposed by subsection (a) shall apply to such sale at the rate specified in subparagraph (C),

"(ii) the tax imposed by subsection (a) shall apply to any subsequent sale or use without regard to clause (i), and

"(iii) the rate specified in subparagraph (C) shall be the deemed Btu taxes per kilowatt hour of such electricity for purposes of determining the tax imposed by subsection (a) on any subsequent sale or use of such electricity.

"(C) RATE.—The rate specified in this subparagraph is, for each kilowatt hour, the product of—

"(i) the sum of the base rate and the supplemental rate, multiplied by

"(ii) a fraction the numerator of which is 10,335 and the denominator of which is 1,000,000.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection, including regulations—

"(A) prescribing a base period to be used by any person not in existence during the base period, and

"(B) prescribing such other modifications to the application of this subsection as are necessary to carry out the purposes of this subsection.

"(e) EXCEPTIONS.—

"(1) ELECTRICITY USED IN CERTAIN ELECTROLYTIC PROCESSES.—

"(A) IN GENERAL.—In the case of electricity used in any electrolytic process, the tax imposed by this section shall not apply to the feedstock portion of such electricity.

"(B) FEEDSTOCK PORTION.—For purposes of subparagraph (A), the feedstock portion of electricity is the portion of the electrical energy which is incorporated into the manufactured product.

"(2) ELECTRICITY USED TO GENERATE PUMPED STORAGE, ETC.—The tax imposed by this section shall not apply to electricity used in the United States to create any hydropower source to generate electricity. The electricity generated by such hydropower source shall be disregarded in determining the deemed Btu taxes of the electricity.

"(3) USE TAX EXCEPTION.—The Secretary may provide by regulations that the tax imposed by subsection (a)(2) shall not apply in cases where the Secretary determines that such an exception is warranted, after taking into account the protection of revenues to the United States from this subchapter and the ease of administration for both taxpayers and the Secretary.

"PART III—TAX RATES

"Sec. 4448. Tax rates.

"SEC. 4448. TAX RATES.

"(a) BASE RATE.—For purposes of this subchapter—

"(1) PHASE-IN RATES.—Effective during—

"(A) the 1-year period beginning on July 1, 1994, the base rate is 8.9 cents, and

"(B) the 1-year period beginning on July 1, 1995, the base rate is 17.9 cents.

"(2) PERMANENT UNINDEXED RATE.—Effective on and after July 1, 1996, the base rate is 26.8 cents.

"(3) INDEXED RATES.—

"(A) IN GENERAL.—Effective during any calendar year after 1997, the base rate under paragraph (2) shall be increased by an amount equal to—

"(i) 26.8 cents, multiplied by

"(ii) the inflation adjustment for such calendar year.

"(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A), the inflation adjustment for any calendar year is the percentage (if any) by which—

"(i) the GDP deflator for the preceding calendar year, exceeds

"(ii) the GDP deflator for 1996.

"(C) GDP DEFLATOR FOR CALENDAR YEAR.—For purposes of subparagraph (B), the GDP deflator for any calendar year is the GDP deflator for the second calendar quarter of such year.

"(D) GDP DEFLATOR.—For purposes of subparagraph (C), the term 'GDP deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before November 15 of the calendar year referred to in subparagraph (B)(i).

"(b) SUPPLEMENTAL RATE.—For purposes of this subchapter—

"(1) PHASE-IN RATES.—Effective during—

"(A) the 1-year period beginning on July 1, 1994, the supplemental rate is 11.4 cents, and

"(B) the 1-year period beginning on July 1, 1995, the supplemental rate is 22.8 cents.

"(2) PERMANENT UNINDEXED RATE.—Effective on and after July 1, 1996, the supplemental rate is 34.2 cents.

"(3) INDEXED RATES.—Effective during any calendar year after 1997, the supplemental rate under paragraph (2) shall be increased by an amount equal to—

"(A) 34.2 cents, multiplied by

"(B) the inflation adjustment for such calendar year determined under subsection (a)(3)(B).

"(c) ROUNDING.—If any increase determined under subsection (a)(3) or (b)(3) is not a multiple of 0.1 cent, such increase shall be rounded to the nearest multiple of 0.1 cent.

"PART IV—USE TAXES; FLOOR STOCKS TAXES; ADMINISTRATIVE PROVISIONS; DEFINITIONS AND SPECIAL RULES

"Sec. 4451. Tax on certain uses.

"Sec. 4452. Floor stocks taxes.

"Sec. 4453. Administrative provisions.

"Sec. 4454. Definitions and special rules.

"SEC. 4451. TAX ON CERTAIN USES.

"(a) GENERAL RULE.—There is hereby imposed a tax on the use of any fossil fuel—

"(1) in the manufacture or production in the United States of a fuel other than at a refinery, or

"(2) as a fuel.

The preceding sentence shall not apply if tax was imposed under this subchapter before such use and such tax is not credited or refunded.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of tax imposed by subsection (a) shall be the amount which would be imposed under the appropriate section of part I or II if such use were a taxable event under such section.

"(2) CRUDE OIL AND OTHER PRODUCTS NOT TAXED ON REMOVAL OR IMPORTATION.—The amount of the tax imposed by subsection (a) on crude oil or other product not subject to tax under part I or II shall be the base rate (increased by the supplemental rate in the case of crude oil or any petroleum product other than any liquefied petroleum gas, isopentane, and natural gasoline) for each million Btu's of the Btu content of such oil or product.

"(3) AUTHORITY TO PRESCRIBE APPLICABLE PER UNIT BTU FACTORS.—In the case of crude oil or any other product for which an applicable per unit Btu factor is not prescribed for purposes of part I or II, the Secretary may prescribe such a factor, and, if so prescribed, such factor shall apply for purposes of paragraph (2).

"(c) LIABILITY FOR TAX.—The taxes imposed by subsection (a) shall be paid by the person using the fuel.

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—Except as provided in subsection (e), the tax imposed by this section shall not apply to—

"(A) any use to which section 4442, section 4444(e), or subsection (d) or (e) of section 4445 applies, or

"(B) any use of methane described in section 4444(f)(1)(A).

"(2) USE ON PRODUCTION PREMISES.—The tax imposed by this section shall not apply to any use of crude oil or natural gas for producing crude oil or natural gas if—

"(A) in the case of crude oil, it is used before entry at the lease automatic custody transfer point (or its manual equivalent), and

"(B) in the case of natural gas, it is used before entry into an interstate or intrastate transmission pipeline.

"(3) CRUDE OIL USED AT REFINERY, ETC.—The tax imposed by this section shall not apply to—

"(A) any use of crude oil at a facility at which crude oil is refined or any use at such facility of any product produced at such facility,

"(B) any use of natural gas at a natural gas processing or fractionation plant or any use

at such plant of any product produced at such plant, or

"(C) any use of ethanol at a facility at which ethanol is produced for use as a fuel.

"(4) OTHERWISE TAXABLE EVENT OCCURRING BEFORE EFFECTIVE DATE.—The tax imposed by this section shall not apply to any use if no tax would be imposed by this section on such use were this subchapter in effect for all periods before July 1, 1994.

"(e) GENERATION OF STEAM AND ELECTRICITY.—

"(1) IN GENERAL.—In the case of a facility which uses any taxable refined petroleum product, natural gas, or coal—

"(A) to generate electricity, and

"(B) to produce steam which is used or which is furnished or sold in the trade or business of the furnishing or sale of steam,

the tax imposed by subsection (a) shall apply to the use of such product, gas, or coal at such facility to the extent such use is attributable (determined on the basis of the proportionate Btu content of the electricity and the steam) to the production of steam which is so used, furnished, or sold.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to steam used for any purpose if tax would not be imposed under this subchapter on the fuel used to produce the steam had such fuel been used directly for such purpose.

"(f) TREATMENT OF NATURAL GAS LOST IN TRANSMISSION.—For purposes of this section, natural gas lost in transmission by a pipeline shall be treated as used as a fuel for such pipeline.

"SEC. 4452. FLOOR STOCKS TAXES.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on any taxable fuel which on any tax-increase date is held in the United States by any person.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any taxable fuel with respect to any tax-increase date shall be equal to the excess (if any) of—

"(1) the amount of tax which would be imposed under part I or II if a taxable event with respect to such fuel had occurred on such date, over

"(2) the prior tax (if any) imposed by this subchapter on such fuel.

"(c) LIABILITY FOR TAX.—The person holding the taxable fuel on any tax-increase date shall pay the tax imposed by subsection (a).

"(d) EXCEPTIONS.—The tax imposed by subsection (a) shall not apply to—

"(1) any taxable fuel held before the point where it would otherwise be subject to tax under part I or II, or

"(2) any taxable fuel held by any person exclusively for any use by such person to the extent a credit or refund (or other payment) of the tax imposed by this section would be allowable or payable if such tax were imposed by part I or II.

"(e) CREDIT AGAINST TAX.—

"(1) IN GENERAL.—Each person shall be allowed $200 as a credit against the taxes imposed by subsection (a) with respect to each tax-increase date. Such credit shall not exceed the amount of taxes imposed by subsection (a) for which such person is liable with respect to such date.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) all persons who are treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 taxpayer, and

"(B) the $200 amount specified in paragraph (1) shall be apportioned among such persons under regulations prescribed by the Secretary.

"(f) DEFINITIONS.—For purposes of this section—

"(1) TAXABLE FUEL.—The term 'taxable fuel' means any taxable refined petroleum product, natural gas, or coal.

"(2) TAX-INCREASE DATE.—The term 'tax-increase date' means—

"(A) July 1, 1994,

"(B) July 1, 1995,

"(C) July 1, 1996, and

"(D) January 1 of each calendar year for which there is an increase in a rate of tax by reason of subsection (a)(3) or (b)(3) of section 4448 (relating to inflation adjustment).

"(g) DUE DATE.—The tax imposed by subsection (a) shall be paid on or before the close of the 7-month period beginning on the tax-increase date.

"SEC. 4453. ADMINISTRATIVE PROVISIONS.

"(a) RULES RELATING TO REFUNDS FOR EXEMPT AND OTHER USES.—

"(1) PERIOD FOR FILING CLAIMS.—No payment shall be made under section 4442, 4444(f), or 4445(e) unless, within 2 years after the date that the event occurs giving rise to a right to such payment, a claim therefor is filed by the person entitled to such payment.

"(2) DENIAL OF INTEREST.—Except as provided in paragraph (3), no interest shall be paid on claims for payments under section 4442, 4444(f), or 4445(e).

"(3) MINIMUM AMOUNTS AND PERIODS.—In the case of persons who meet such requirements as the Secretary may prescribe, if—

"(A) a claim for payment is filed under section 4442, 4444(f), or 4445(e) for any period for which more than $1,000 is payable and which is not less than 1 week, and

"(B) the Secretary has not paid such claim within 20 days after the date the claim was filed,

such claim shall be paid with interest from such date using the overpayment rate and method under section 6621. The preceding sentence shall not apply to a claim filed under section 4442(b)(1). Nothing in section 6611(e) shall bar interest payable under this paragraph.

"(4) HEATING OIL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 1 claim may be filed under section 4442(b)(1) by any person with respect to fuel oil sold by such person during any calendar year.

"(B) EXCEPTION.—If $1,000 or more is payable under section 4442(b)(1) to any person with respect to fuel oil sold during any of the 1st 3 quarters of the calendar year, a claim may be filed under section 4442(b)(1) with respect to fuel oil sold during such quarter. No claim filed under this subparagraph shall be allowed unless filed on or before the last day of the 1st quarter following the quarter for which the claim is filed.

"(5) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by this subchapter shall, insofar as applicable and not inconsistent with this subsection and section 4442, 4444(f), or 4445(e), apply in respect of payments provided for in such section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under section 4442, 4444(f), or 4445(e), or the correctness of any payment made in respect of such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(b) PAYMENT OF TAX TO PERSONS REQUIRED TO COLLECT TAX.—

"(1) PAYMENT WITHIN 30 DAYS.—In the case of the taxes imposed by sections 4444 and 4446 which are required to be collected by another person, the person liable for such tax shall remit the tax to such other person within 30 days after the date of the taxable event.

"(2) RELIEF FROM PENALTY FOR CERTAIN FAILURES TO COLLECT TAX.—No penalty shall be imposed under this title on the failure of any person to collect the taxes referred to in paragraph (1) if—

"(A) during the 30-day period referred to in paragraph (1), such person exercises due diligence in attempting to collect such tax, and

"(B) such person notifies the Secretary, within 15 days after the close of the month in which such 30-day period ends, of the failure to collect such tax and provides such other information as the Secretary may require.

"(3) EXCEPTION FOR PERSONS WITH SECONDARY LIABILITY.—Paragraphs (1) and (2) shall not apply if the person required to collect the tax is required to pay any portion of such tax which is not paid by the person primarily liable for such tax.

"(c) INFORMATION REPORTING.—The Secretary may require—

"(1) information reporting by each remitter of tax imposed by this subchapter, and

"(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subchapter.

"(d) REGISTRATION.—

"(1) IN GENERAL.—Every person required by the Secretary to register under this subsection with respect to any tax imposed by this subchapter shall register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this section.

"(2) OTHER RULES.—Rules similar to the rules of section 4101(b) and 4222(c) shall apply for purposes of this subsection.

"(e) ADJUSTMENTS TO PER UNIT BTU FACTORS.—

"(1) IN GENERAL.—If the Secretary determines that the applicable per unit Btu factor then in effect for any taxable refined petroleum product or natural gas does not, when multiplied by 1,000,000, properly reflect the Btu content per unit for such substance (in the circumstances where taxable events under this subchapter occur with respect to such substance), the Secretary may modify the applicable per unit Btu factor for such substance. Any such modification shall be effective as of the date prescribed by the Secretary.

"(2) MODIFICATION OF LIST OF REFINED PETROLEUM PRODUCTS.—The Secretary may modify, as appropriate, the list of refined petroleum products in section 4441 for which applicable per unit Btu factors are separately determined.

"SEC. 4454. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) FOSSIL FUEL.—The term 'fossil fuel' means crude oil, any petroleum product, natural gas, any natural gas product, and coal.

"(2) CRUDE OIL.—The term 'crude oil' includes condensates from crude oil.

"(3) COAL.—The term 'coal' includes lignite.

"(4) UNITED STATES.—The term 'United States' means the 50 States, the District of Columbia, and the foreign trade zones of the United States.

"(5) PERSON.—The term 'person' includes the United States, any State or political sub-

division thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

"(c) FRACTIONAL PART OF UNIT.—In the case of a fraction of a unit, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole unit.

"(d) SPECIAL RULES RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS.—

"(1) LIKE TAX ON ARTICLES BROUGHT INTO THE UNITED STATES FROM PUERTO RICO OR THE VIRGIN ISLANDS.—For purposes of this subchapter, articles brought into the United States from the Commonwealth of Puerto Rico or the Virgin Islands shall be treated as entered into the United States at the time brought into the United States.

"(2) DISPOSITION OF REVENUES.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(e) NO EXEMPTION FROM TAX.—No person shall be exempt from any tax imposed by this subchapter except to the extent provided in this subchapter or in any provision of law enacted after the date of the enactment of this subchapter which grants a specific exemption, by reference to this subchapter, from a tax imposed by this subchapter.

"PART V—TAX ON IMPORTED HIGH-ENERGY PRODUCTS

"Sec. 4456. Imposition of tax.

"Sec. 4457. Definitions and special rules.

"SEC. 4456. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable high-energy product entered into the United States for consumption, use, or warehousing.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any taxable high-energy product shall be the imputed Btu tax with respect to such product.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person entering the product for consumption, use, or warehousing.

"SEC. 4457. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE HIGH-ENERGY PRODUCT.—For purposes of this part—

"(1) IN GENERAL.—The term 'taxable high-energy product' means any product which, at the time entered into the United States for consumption, use, or warehousing, is listed as a taxable high-energy product by the Secretary.

"(2) DETERMINATION OF PRODUCTS ON LIST.—A product shall be listed under paragraph (1) if the product is produced in an industry identified (using 4-digit SIC codes) in the most recent census of manufacturing as producing products which on average have more than 2 percent of their value attributable to direct energy inputs (exclusive of the tax imposed by parts I and II) of taxable energy sources.

"(3) TAXABLE ENERGY SOURCE.—The term 'taxable energy source' means any taxable refined petroleum product, natural gas, coal, and electricity.

"(b) IMPUTED BTU TAX.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'imputed Btu tax' means, with respect to any taxable high-energy product, the amount of tax which would have been imposed by parts I and II on taxable energy sources directly used in the manufacture or production of the product if—

"(A) such product were manufactured or produced using the predominant method of manufacture or production of such product in the United States, and

"(B) such taxable energy sources had been subject to tax under such parts on the date of the entry of the product into the United States for consumption, use, or warehousing.

"(2) TAX WHERE INFORMATION FURNISHED.—If the person liable for the tax imposed by section 4456 with respect to any product furnishes to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine the imputed Btu tax with respect to such product, the imputed Btu tax determined using such information shall apply in lieu of the amount determined under paragraph (1).

"(c) REQUESTS TO CHANGE LIST.—If any importer or producer of any product requests that the Secretary determine whether—

"(1) such product should be listed as a taxable high-energy product under subsection (a)(1) or be removed from such listing, or

"(2) the imputed Btu tax for such product under subsection (b)(1),

the Secretary shall make such determination within 180 days after the date the request was filed."

(b) REFUNDS FOR FARM USE OF GASOLINE AND DIESEL FUEL.—

(1) GASOLINE.—

(A) Subsection (a) of section 6420 is amended by adding at the end thereof the following new flush sentence:

"If the supplemental rate of the tax imposed by section 4441 was imposed on such gasoline, the Secretary shall also pay (without interest) to such ultimate purchaser an amount equal to the product of such supplemental rate and the applicable per unit Btu factor per barrel (determined under section 4441) of the gasoline so used."

(B) Subsection (h) of section 6420 is amended by inserting "and taxes imposed by section 4441" after "financing rate".

(2) DIESEL FUEL.—

(A) Section 6427 is amended by redesignating subsections (m) through (r) as subsections (n) through (s), respectively, and by inserting after subsection (l) the following new subsection:

"(m) REFUNDS OF SUPPLEMENTAL RATE OF BTU TAX ON FARM USE OF DIESEL FUEL.—Except as provided in subsection (k), if the supplemental rate of the tax imposed by section 4441 was imposed on diesel fuel used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of such supplemental rate and the applicable per unit Btu factor per barrel (determined under section 4441) of the diesel fuel so used."

(B) Paragraph (1) of section 6427(i) is amended by inserting "(m)," after "(l),".

(C) Paragraph (4) of section 6427(i), as amended by subpart B, is amended—

(i) by striking "OR 4091" in the paragraph heading and inserting ", 4091, OR 4441", and

(ii) by striking "subsection (l)" each place it appears and inserting "subsections (l) and (m)".

(c) CIVIL PENALTY FOR USING REDUCED-RATE FUEL FOR TAXABLE USE.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6714. DYED FUEL SOLD FOR USE OR USED IN TAXABLE USE.

"(a) IMPOSITION OF PENALTY.—If any dyed fuel—

"(1) is sold by any person for any use which such person knows or has reason to know is not a reduced-tax use of such fuel, or

"(2) is used by any person for a use other than a reduced-tax use and such person knew, or had reason to know, that such fuel was so dyed,

then, in addition to the tax, such person shall pay a penalty on such sale or use.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) on any sale or use shall be the greater of—

"(1) $1,000, or

"(2) an amount equal to twice the excess of the aggregate taxes which should have been imposed under section 4441 on the fuel so sold or used over the prior taxes (if any) imposed on such fuel under such section which have not been credited or refunded.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DYED FUEL.—The term 'dyed fuel' means—

"(A) qualified heating oil (as defined in section 4441(b)(2)(B)), and

"(B) diesel fuel dyed in accordance with section 4441(b)(2)(C).

"(2) REDUCED-TAX USE.—The term 'reduced-tax use' means, with respect to any fuel, the use for which such fuel was dyed."

(2) CLERICAL AMENDMENT.—The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 6714. Dyed fuel sold for use or used in taxable use."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (a) of section 6675 is amended by inserting "section 4442 (relating to refunds of petroleum tax for certain sales and uses), section 4444(f) (relating to methane recovered from biomass or coal mining), section 4445(e) (relating to coal used in production of coke for steel)," before "section 6420".

(B) Subsection (b) of section 6675 is amended by inserting "4442, 4444(f), 4445(e)," before "6420".

(2) Section 6206 is amended—

(A) by inserting "(a) FUEL TAXES.—" before "Any portion of", and

(B) by adding at the end thereof the following new subsection:

"(b) BTU TAXES.—Any portion of a payment made under section 4442, 4444(f), or 4445(e) which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by subchapter A of chapter 36 and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing a claim under section 4442, 4444(f), or 4445(e)."

(3)(A) The section heading for section 6206 is amended by striking "UNDER SECTIONS 6420, 6421, AND 6427" and inserting "FOR CERTAIN FUELS TAX REFUNDS AND ENERGY TAX REFUNDS".

(B) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking "under sections 6420, 6421, and 6427" and inserting "for certain fuels tax refunds and energy tax refunds".

(4) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma,

(C) by redesignating the clause (xii) relating to section 338(h)(10)(C) as clause (xiii) and by striking the period at the end thereof and inserting ", or", and

(D) by inserting after clause (xiii), as so redesignated, the following new clause:

"(xiv) section 4453(c) (relating to information reporting with respect to energy taxes)."

(5) Sections 7210, section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by inserting "4453(a)(5)(B)," before "6420(e)(2)" each place it appears.

(6) Subparagraph (A) of section 9505(c)(3) is amended by striking "subchapter A" and inserting "subchapter B".

(7) The table of subchapters for chapter 36 is amended by striking the items relating to subchapters A and B and inserting the following:

"Subchapter A. Energy taxes.

"Subchapter B. Harbor maintenance tax.

"Subchapter C. Transportation by water."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1994.

Subpart B—Modifications to Tax on Diesel Fuel

SEC. 14242. MODIFICATIONS TO TAX ON DIESEL FUEL.

(a) IN GENERAL.—Subparts A and B of part III of subchapter A of chapter 32 (relating to manufacturers excise taxes) are amended to read as follows:

"Subpart A—Gasoline and Diesel Fuel

"Sec. 4081. Imposition of tax.

"Sec. 4082. Exemptions for diesel fuel.

"Sec. 4083. Definitions and special rule.

"Sec. 4084. Cross references.

"SEC. 4081. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—

"(1) TAX ON REMOVAL, ENTRY, OR SALE.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on—

"(i) the removal of a taxable fuel from any refinery,

"(ii) the removal of a taxable fuel from any terminal,

"(iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and

"(iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

"(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk to a terminal if the person removing or entering the taxable fuel and the operator of such terminal are registered under section 4101.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate, and

"(iii) the deficit reduction rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is—

"(I) 11.5 cents per gallon in the case of gasoline, and

"(II) 17.5 cents per gallon in the case of diesel fuel,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon, and

"(iii) the deficit reduction rate is 2.5 cents per gallon.

"(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER.—

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (a) on taxable fuel removed or sold by the blender thereof.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and

"(B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(c) TAXABLE FUELS MIXED WITH ALCOHOL AT REFINERY, ETC.—

"(1) REDUCED RATES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are the applicable fraction of the otherwise applicable rates in the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing such a mixture after the time of such removal or entry.

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is—

"(i) in the case of a qualified alcohol mixture which contains gasoline, the fraction the numerator of which is 10 and the denominator of which is—

"(I) 9 in the case of 10 percent gasohol,

"(II) 9.23 in the case of 7.7 percent gasohol, and

"(III) 9.43 in the case of 5.7 percent gasohol, and

"(ii) in the case of a qualified alcohol mixture which does not contain gasoline, 10%.

"(2) LATER SEPARATION OF FUEL FROM QUALIFIED ALCOHOL MIXTURE.—If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at the otherwise applicable Highway Trust Fund financing rate (or its equivalent) by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

"(3) ALCOHOL; QUALIFIED ALCOHOL MIXTURE.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(B) QUALIFIED ALCOHOL MIXTURE.—The term 'qualified alcohol mixture' means—

"(i) any mixture of gasoline with alcohol if at least 5.7 percent of such mixture is alcohol, and

"(ii) any mixture of diesel fuel with alcohol if at least 10 percent of such mixture is alcohol.

"(4) OTHERWISE APPLICABLE RATES FOR GASOLINE MIXTURES.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.

"(5) OTHERWISE APPLICABLE RATES FOR DIESEL FUEL MIXTURES.—For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate for diesel fuel in a qualified alcohol mixture is 12.1 cents per gallon (11.5 cents per gallon in the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol).

"(6) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after September 30, 2000.

"(d) TERMINATION.—

"(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1999, the Highway Trust Fund financing rate under subsection (a)(2) shall not apply.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.

"(3) DEFICIT REDUCTION RATE.—On and after October 1, 1995, the deficit reduction rate under subsection (a)(2) shall not apply.

"(e) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4082. EXEMPTIONS FOR DIESEL FUEL.

"(a) IN GENERAL.—The tax imposed by section 4081 shall not apply to diesel fuel—

"(1) which the Secretary determines is destined for a nontaxable use,

"(2) which is indelibly dyed in accordance with regulations which the Secretary shall prescribe, and

"(3) which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.

"(b) NONTAXABLE USE.—For purposes of this section, the term 'nontaxable use' means—

"(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof,

"(2) any use in a train, and

"(3) any use described in section 6427(b)(1).

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

"(d) CROSS REFERENCE.—

"For tax on train, motorboat, and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

"SEC. 4083. DEFINITIONS AND SPECIAL RULE.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) gasoline, and

"(B) diesel fuel.

"(2) GASOLINE.—The term 'gasoline' includes, to the extent prescribed in regulations—

"(A) gasoline blend stocks, and

"(B) products commonly used as additives in gasoline.

For purposes of subparagraph (A), the term 'gasoline blend stock' means any petroleum product component of gasoline.

"(3) DIESEL FUEL.—The term 'diesel fuel' means any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat.

"(b) CERTAIN USES DEFINED AS REMOVAL.—If any person uses taxable fuel (other than in the production of gasoline, diesel fuel, or special fuels referred to in section 4041), such use shall for the purposes of this chapter be considered a removal.

"SEC. 4084. CROSS REFERENCES.

"(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

"(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

"(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

"Subpart B—Aviation Fuel

"Sec. 4091. Imposition of tax.

"Sec. 4092. Exemptions.

"Sec. 4093. Definitions.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A) the Airport and Airway Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 17.5 cents per gallon.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(4) TERMINATION OF RATES.—

"(A) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1996.

"(B) The Leaking Underground Storage Tank Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 4.1 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 4.56 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 4.1 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 2000.

"(d) LOWER RATES OF TAX ON ALCOHOL MIXTURES NOT MADE FROM ETHANOL.—In the case of a mixture described in subsection (c)(1)(A)(i) none of the alcohol in which is ethanol—

"(1) subsections (c)(1)(A) and (c)(2) shall each be applied by substituting rates which are 0.6 cents less than the rates contained therein, and

"(2) subsection (c)(1)(B) shall be applied by substituting rates which are 10% of the rates determined under paragraph (1).

"SEC. 4092. EXEMPTIONS.

"(a) NONTAXABLE USES.—The Airport and Airway Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(B)).

"(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

"(c) SUPPLIES FOR VESSELS AND AIRCRAFT.—Under regulations prescribed by the Secretary, the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)).

"SEC. 4093. DEFINITIONS.

"(a) AVIATION FUEL.—For purposes of this subpart, the term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

"(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) and registered under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, blender, or wholesale distributor of aviation fuel, or

"(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

"(C) REDUCED RATE PURCHASERS TREATED AS PRODUCERS.—Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer."

(b) CIVIL PENALTY FOR USING REDUCED-RATE FUEL FOR TAXABLE USE.—

(1) Paragraph (1) of section 6714(c), as added by subpart A, is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) diesel fuel dyed in accordance with section 4082."

(2) Paragraph (2) of section 6714(b), as added by subpart A, is amended by striking "section 4441" and inserting "sections 4081 and 4441" and by striking "such section" and inserting "such sections".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended by striking ", section 4081(c), or section 4091(c)" and inserting "or section 4081(c)".

(2) Subsection (a) of section 4101 is amended by striking "4081" and inserting "4041(a)(1), 4081,".

(3) Section 4102 is amended by striking "gasoline" and inserting "any taxable fuel (as defined in section 4083)".

(4) Paragraph (1) of section 4041(a) is amended to read as follows:

"(1) TAX ON DIESEL FUEL IN CERTAIN CASES.—

"(A) IN GENERAL.—There is hereby imposed a tax on any liquid other than gasoline (as defined in section 4083)—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat for use as a fuel in such vehicle, train, or boat, or

"(ii) used by any person as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of diesel fuel if there was a taxable sale of such fuel under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate on diesel fuel and the deficit reduction rate in effect under section 4081 at the time of such sale or use.

"(ii) HIGHWAY RATE NOT TO APPLY TO TRAINS.—The Highway Trust Fund financing rate shall not apply to any sale for use, or use, of fuel in a train.

"(iii) CERTAIN BUS USES.—If the limitation in section 6427(b)(2)(A) applies to fuel sold for use or used in an automobile bus, the Highway Trust Fund financing rate shall be 3 cents per gallon and the deficit reduction rate shall not apply."

(5) Paragraph (2) of section 4041(a) is amended by striking "or paragraph (1) of this subsection" and by inserting "on gasoline" after "Highway Trust Fund financing rate".

(6) Paragraph (2) of section 4041(c) is amended by striking "any product taxable under section 4081" and inserting "gasoline (as defined in section 4083)".

(7) Paragraph (2) of section 4041(d) is amended—

(A) by striking "(other than a product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))", and

(B) by striking "section 4091" and inserting "section 4081".

(8) Paragraph (3) of section 4041(d) is amended by striking "(other than any product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))".

(9) Subparagraph (A) of section 4041(k)(1) is amended by striking "sections 4081(c) and 4091(c), as the case may be" and inserting "section 4081(c)".

(10) Subparagraph (B) of section 4041(m)(1) is amended by striking "section 4091(d)(1)" and inserting "section 4091(c)(1)".

(11) Section 6206 is amended by striking "4041 or 4091" and inserting "4041, 4081, or 4091".

(12) Paragraph (1) of section 6302(f) is amended by inserting "on gasoline" after "section 4081" and after "such tax".

(13) Paragraph (1) of section 6412(a) is amended by striking "gasoline" each place it appears (including the heading) and inserting "taxable fuel".

(14)(A) Subparagraph (A) of section 6416(a)(4) is amended by striking "product" each place it appears and inserting "gasoline".

(B) Subparagraph (B) of section 6416(a)(4) is amended by striking all that follows "substituting" and inserting "'any gasoline taxable under section 4081' for 'aviation fuel' therein)."

(15) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking "section 4082(b)" and inserting "section 4083(a)".

(16) Subsection (b) of section 6427 is amended—

(A) by striking "if any fuel" in paragraph (1) and inserting "if any diesel fuel (as defined in section 4083(a))", and

(B) by striking "4091" each place it appears and inserting "4081".

(17)(A) Paragraph (1) of section 6427(f) is amended by striking "4091(c)(1)(A), or 4091(d)(1)(A)" and inserting "or 4091(c)(1)(A)".

(B) Paragraph (2) of section 6427(f) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(18) Subsection (h) of section 6427 is amended by striking "section 4082(b)" and inserting "section 4083(a)(2)".

(19) Paragraph (3) of section 6427(i) is amended—

(A) by striking "GASOHOL" in the heading and inserting "ALCOHOL MIXTURE", and

(B) by striking "gasoline used to produce gasohol (as defined in section 4081(c)(1))" in subparagraph (A) and inserting "gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))".

(20) The heading of paragraph (4) of section 6427(i) is amended by inserting "4081 OR" before "4091".

(21) Subsection (l) of section 6427 is amended to read as follows:

"(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL.—

"(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if—

"(A) any diesel fuel on which tax has been imposed by section 4081, or

"(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4081 or 4091, as the case may be.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means—

"(A) in the case of diesel fuel, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof, and

"(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of the imposition of tax on any sale thereof.

"(3) LIMIT ON REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Paragraph (1) shall not apply to so much of the tax imposed by section 4081 or 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(A) fuel used in a diesel-powered train, and

"(B) fuel used in any aircraft (other than as supplies for vessels or aircraft, within the meaning of section 4221(d)(3)).

"(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—Fuel used in a diesel-powered train shall be treated as a nontaxable use for purposes of this section, except that paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to the deficit reduction rate imposed by such section unless such fuel was used by a State or any political subdivision thereof."

(22) Paragraph (1) of section 9503(b) is amended—

(A) by striking "gasoline)," in subparagraph (E) and inserting "gasoline and diesel fuel), and",

(B) by striking subparagraph (F), and

(C) by redesignating subparagraph (G) as subparagraph (F).

(23)(A) Subparagraph (B) of section 9503(b)(4) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(B) Subparagraph (C) of section 9503(b)(4), as amended by subtitle A, is amended by striking "4091" and inserting "4081".

(24) Subparagraph (D) of section 9503(c)(6) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(25) Paragraph (2) of section 9503(e) is amended—

(A) by striking ", 4081, and 4091" and inserting "and 4081", and

(B) by striking ", 4081, or 4091" and inserting "or 4081".

(26) Subsection (b) of section 9508 is amended—

(A) by inserting "and diesel fuel" after "gasoline" in paragraph (2),

(B) by striking "diesel fuel and" in paragraph (3), and

(C) by striking "4091" in the last sentence, as added by subtitle A, and inserting "4081".

(27) The table of subparts for part III of subchapter A of chapter 32 is amended by striking the items relating to subparts A and B and inserting the following new items:

"Subpart A. Gasoline and diesel fuel.

"Subpart B. Aviation fuel."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1994.

SEC. 14243. FLOOR STOCKS TAX.

(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on April 1, 1994, if—

(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act, and

(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to all prior removals, entries, and sales of such fuel.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

(c) LIABILITY AND PAYMENT OF TAX.—

(1) LIABILITY FOR TAX.—A person holding the diesel fuel on April 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before January 31, 1995.

(d) DEFINITIONS.—For purposes of this section—

(1) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4083(a) of such Code.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(e) EXCEPTIONS.—

(1) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

(2) COMPLIANCE WITH DYEING REQUIRED.—Paragraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing and marking such fuel.

(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by this section to the same extent as if such taxes were imposed by such section 4081.

Subpart C—Extension of Motor Fuel Tax Rates; Increased Deposits Into Highway Trust Fund

SEC. 14244. EXTENSION OF MOTOR FUEL TAX RATES; INCREASED DEPOSITS INTO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Clause (i) of section 4081(a)(2)(B), as amended by subpart B, is amended—

(1) by striking "11.5 cents" and inserting "14 cents", and

(2) by striking "17.5 cents" and inserting "20 cents".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 4081(c)(4), as so amended, is amended to read as follows:

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

"(i) 8.6 cents a gallon for 10 percent gasohol,

"(ii) 9.842 cents a gallon for 7.7 percent gasohol, and

"(iii) 10.922 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '8.0 cents' for '8.6 cents', '9.38 cents' for '9.842 cents', and '10.58 cents' for '10.922'."

(2) Paragraph (5) of section 4081(c), as so amended, is amended—

(A) by striking "12.1 cents" and inserting "14.6 cents", and

(B) by striking "11.5 cents" and inserting "14.0".

(3) Subparagraph (A) of section 4041(m)(1) is amended to read as follows:

"(A) under subsection (a)(2) the Highway Trust Fund financing shall be 7 cents per gallon, and".

(4) Paragraph (4) of section 6427(l), as amended by subpart B, is amended—

(A) by striking "the deficit reduction rate" and inserting "2.5 cents per gallon of the Highway Trust Fund financing rate", and

(B) by striking "DEFICIT REDUCTION TAX" in the heading and inserting "PORTION OF TAX".

(5) Subsection (b) of section 9503 is amended by adding at the end thereof the following new paragraph:

"(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND.—

"(A) IN GENERAL.—There shall not be taken into account under paragraphs (1) and (2)—

"(i) the tax imposed by section 4081 on diesel fuel used in any train, and

"(ii) so much of the following taxes as are attributable to 2.5 cents of the Highway Trust Fund financing rate:

"(I) Motorboat fuel taxes (as defined in subsection (c)(4)(D)).

"(II) Small-engine fuel taxes (as defined in subsection (c)(5)(B)).

"(III) Nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)).

"(B) TRANSFERS FROM HIGHWAY TRUST FUND.—For purposes of determining the amount paid from the Highway Trust Fund under paragraphs (4), (5), and (6) of subsection (c), the Highway Trust Fund financing rates shall be treated as being 2.5 cents less than the otherwise applicable rates."

(c) INCREASE IN DEPOSITS IN MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) is amended by striking "1.5 cents" and inserting "2 cents".

(d) REPEAL OF EXPIRED PROVISIONS.—

(1) Subparagraph (A) of section 4081(a)(2) (relating to rate of tax), as amended by subpart B, is amended—

(A) by adding "and" at the end of clause (i),

(B) by striking ", and" at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).

(2) Subparagraph (B) of section 4081(a)(2), as so amended, is amended—

(A) by adding "and" at the end of clause (i),

(B) by striking ", and" at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).

(3) Subsection (d) of section 4081, as so amended, is amended by striking paragraph (3).

(4) Paragraphs (1) and (2) of section 4041(a) (as so amended), and paragraph (3) of section 4041(c), are each amended by striking "the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate" and by inserting "the Highway Trust Fund financing rate".

(5) Clause (ii) of section 4041(a)(1)(C), as so amended, is amended—

(A) by striking "The Highway Trust Fund financing rate" and inserting "So much of the Highway Trust Fund financing rate as exceeds 2.5 cents per gallon", and

(B) by striking "HIGHWAY RATE" in the heading and inserting "PORTION OF HIGHWAY RATE".

(6) Clause (iii) of section 4041(a)(1)(C), as so amended, is amended by striking "and the deficit reduction rate shall not apply".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1995, but the amendment made by subsection (c) shall apply only to amounts attributable to taxes imposed on or after such date.

PART V—COMPLIANCE PROVISIONS

SEC. 14251. REPORTING REQUIRED FOR CERTAIN PAYMENTS TO CORPORATIONS.

(a) SECTION 6041.—Section 6041 (relating to information at source) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR PAYMENTS FOR SERVICES.—No payment for the performance of services shall be exempt from the requirements of this section merely because it is a payment to a corporation."

(b) SECTION 6041A(a).—Subsection (a) of section 6041A is amended by adding at the end thereof the following new sentence: "A payment shall not be exempt from the requirements of this subsection merely because it is a payment to a corporation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1993.

SEC. 14252. MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT AND RETURN-PREPARER PENALTIES.

(a) REASONABLE BASIS REQUIRED.—

(1) SUBSTANTIAL UNDERSTATEMENT PENALTY.—Clause (ii) of section 6662(d)(2)(B) (relating to reduction for understatement due to position of taxpayer or disclosed item) is amended to read as follows:

"(ii) any item if—

"(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

"(II) there is a reasonable basis for the tax treatment of such item by the taxpayer."

(2) RETURN PREPARER PENALTY.—Paragraph (3) of section 6694(a) (relating to understatement of taxpayer's liability by income tax return preparer) is amended to read as follows:

"(3) the requirements of subclauses (I) and (II) of section 6662(d)(2)(B)(ii) are not satisfied with respect to such position,".

(b) SPECIAL TAX SHELTER RULE.—Subclause (II) of section 6662(d)(2)(C)(i) (relating to special rules for tax shelters) is amended by inserting before the period at the end thereof the following: "and the reasonably anticipated after-tax benefits from the taxpayer's investment in such shelter do not significantly exceed the reasonably anticipated pre-tax economic profit or loss from such investment".

(c) REASONABLE CAUSE EXCEPTION.—Paragraph (1) of section 6664(c) is revised by striking "this part" and inserting "section 6662".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.

SEC. 14253. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

"(a) IN GENERAL.—Any applicable financial entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

"(1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,

"(2) the date of the discharge and the amount of the indebtedness discharged, and

"(3) such other information as the Secretary may prescribe.

"(b) EXCEPTION.—Subsection (a) shall not apply to any discharge of less than $600.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE FINANCIAL ENTITY.—The term 'applicable financial entity' means—

"(A) any financial institution described in section 581 or 591(a) and any credit union,

"(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration, and any successor or subunit of any of the foregoing, and

"(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A).

"(2) GOVERNMENTAL UNITS.—In the case of an entity described in paragraph (1)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every applicable financial entity required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the entity required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(b) PENALTIES.—

(1) RETURNS.—Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (viii) through (xv) as clauses (ix) through (xvi), respectively, and by inserting after clause (vii) the following new clause:

"(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(2) STATEMENTS.—Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (P) through (S) as subparagraphs (Q) through (T), respectively, and by inserting after subparagraph (O) the following new subparagraph:

"(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050P. Returns relating to the cancellation of indebtedness by certain financial entities."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

PART VI—TREATMENT OF INTANGIBLES

SEC. 14261. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) COMPUTER SOFTWARE DEFINED.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade business or substantial portion thereof:

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 14 years, or

"(ii) is fixed as to amount and, without regard to this section, would be recoverable under a method similar to the unit-of-production method.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) CERTAIN TRANSACTION COSTS.—Any fees for professional services, and any transaction costs, incurred by parties to a transaction with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary. For purposes of this subparagraph, deductions allowable under section 1253(d) shall be treated as deductions allowable for amortization.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCES.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

(h) ANNUAL REPORTS.—The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation and effects of the amendments made by this section, including the effects of such amendments on merger and acquisition activities. The first such annual report shall be submitted on or before December 31, 1994.

(i) ANNUAL REPORTS ON OUTSTANDING CASES.—The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the volume of cases still outstanding that involve disputes regarding the amortization of intangibles, progress made in resolving such cases, efforts made to coordinate settlement proceedings, and factors inhibiting the resolution of such cases. The report shall also address the impact of the amendments made by this section on the volume of disputes regarding the amortization of intangibles. The first such annual report shall be submitted on or before December 31, 1994.

SEC. 14262. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying on or after January 5, 1993.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring on or after January 5, 1993, if a written contract to purchase such partner's interest in the partnership was binding on January 4, 1993, and at all times thereafter before such purchase.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 14271. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $750 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph if it provides information sufficient to substantiate the amount of the deductible contribution. If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1994.

SEC. 14272. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution, the organization shall, in connection with the solicitation or receipt of the contribution—

"(1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provide the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

"SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

"(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in

respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause."

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new item:

"Sec. 6115. Disclosure related to quid pro quo contributions.

"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

SEC. 14273. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.

SEC. 14274. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14275. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402 (g)-1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1993.

Subtitle C—Empowerment Zones and Enterprise Communities, Etc.

PART I—EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 14301. DESIGNATION AND TREATMENT OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Empowerment Zones and Enterprise Communities

"Part I. Designation.

"Part II. Incentives for empowerment zones and enterprise communities.

"Part III. Additional incentives for empowerment zones.

"Part IV. Regulations.

"PART I—DESIGNATION

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility criteria.

"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—From among the areas nominated for designation under this section, the appropriate Secretaries may, in consultation with the Enterprise Board, designate empowerment zones and enterprise communities.

"(b) NUMBER OF DESIGNATIONS.—

"(1) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate 100 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 65 may be designated in urban areas, not more than 30 may be designated in rural areas, and not more than 5 may be designated by the Secretary of the Interior in Indian reservations.

"(2) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate 10 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 6 may be designated in urban areas, not more than 3 may be designated in rural areas, and not more than 1 may be designated by the Secretary of the Interior in an Indian reservation. If 6 empowerment zones are designated in urban areas, no less than 1 shall be designated in an urban area the most populous city of which has a population of 500,000 or less. The Secretary of Housing and Urban Development shall designate empowerment zones located in urban areas in such a manner that the aggregate population of all such zones does not exceed 750,000.

"(c) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this section only after 1993 and before 1996.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation under this section shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) the close of the 10th calendar year beginning on or after such date of designation,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation.

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary, in consultation with the Enterprise Board, may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which it is located—

"(i) has modified the boundaries of the area, or

"(ii) is not complying substantially with, or fails to make progress in achieving the benchmarks set forth in, the strategic plan under subsection (f)(2).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

"(e) LIMITATIONS ON DESIGNATIONS.—An area may be designated under subsection (a) only if—

"(1) the area is nominated by 1 or more local governments and the State or States in which it is located for designation under this section,

"(2) such State or States and the local governments have the authority—

"(A) to nominate the area for designation under this section, and

"(B) to provide the assurances described in paragraph (3),

"(3) such State or States and the local governments provide written assurances satisfactory to the appropriate Secretary that the strategic plan described in the application under subsection (f)(2) for such area will be implemented,

"(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(5) such State or States and local governments certify that no portion of the area nominated is already included in an empowerment zone or in an enterprise community or in an area otherwise nominated to be designated under this section.

"(f) APPLICATION.—An application for designation as an empowerment zone or as an enterprise community shall—

"(1) demonstrate that the nominated area satisfies the eligibility criteria described in section 1392,

"(2) include a strategic plan for accomplishing the purposes of this subchapter that—

"(A) describes the coordinated economic, human, community, and physical develop-

ment plan and related activities proposed for the nominated area,

"(B) describes the process by which the affected community is a full partner in the process of developing and implementing the plan and the extent to which local institutions and organizations have contributed to the planning process,

"(C) identifies the amount of State, local, and private resources that will be available in the nominated area and the private/public partnerships to be used, which may include participation by, and cooperation with, universities, medical centers, and other private and public entities,

"(D) identifies the funding requested under any Federal program in support of the proposed economic, human, community, and physical development and related activities,

"(E) identifies baselines, methods, and benchmarks for measuring the success of carrying out the strategic plan, including the extent to which poor persons and families will be empowered to become economically self-sufficient, and

"(F) does not include any action to assist any establishment in relocating from one area outside the nominated area to the nominated area, except that assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary is permitted if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operation, and

"(3) include such other information as may be required by the appropriate Secretary or the Enterprise Board.

"SEC. 1392. ELIGIBILITY CRITERIA.

"(a) IN GENERAL.—A nominated area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(1) POPULATION.—The nominated area has a maximum population of—

"(A) in the case of an urban area, the lesser of—

"(i) 200,000, or

"(ii) the greater of 50,000 or 10 percent of the population of the most populous city located within the nominated area, and

"(B) in the case of a rural area, 30,000.

"(2) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(3) SIZE.—The nominated area—

"(A) does not exceed 20 square miles if an urban area or 1,000 square miles if a rural area or an Indian reservation,

"(B) has a boundary which is continuous, or, except in the case of a rural area located in more than 1 State, consists of not more than 3 noncontiguous parcels,

"(C)(i) in the case of an urban area, is located entirely within no more than 2 contiguous States, and

"(ii) in the case of a rural area, is located entirely within no more than 3 contiguous States, and

"(D) does not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade) unless the poverty rate for each population census tract in such district is not less than 35 percent (30 percent in the case of an enterprise community).

"(4) POVERTY RATE.—The poverty rate—

"(A) for each population census tract within the nominated area is not less than 20 percent,

"(B) for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent, and

"(C) for at least 50 percent of the population census tracts within the nominated area is not less than 35 percent.

"(b) SPECIAL RULES RELATING TO DETERMINATION OF POVERTY RATE.—For purposes of subsection (a)(4)—

"(1) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—

"(A) TRACTS WITH NO POPULATION.—In the case of a population census tract with no population—

"(i) such tract shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4), but

"(ii) such tract shall be treated as having a zero poverty rate for purposes of applying subparagraph (C) thereof.

"(B) TRACTS WITH POPULATIONS OF LESS THAN 2,000.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4) if more than 75 percent of such tract is zoned for commercial or industrial use.

"(2) DISCRETION TO ADJUST REQUIREMENTS.—Where necessary to carry out the purposes of this subchapter, the appropriate Secretary may reduce by 5 percentage points one of the following thresholds for not more than 10 percent of the population census tracts (or, if fewer, 5 population census tracts) in the nominated area:

"(A) The 20 percent threshold in subsection (a)(4)(A).

"(B) The 25 percent threshold in subsection (a)(4)(B).

"(C) The 35 percent threshold in subsection (a)(4)(C).

If the appropriate Secretary elects to reduce the threshold under subparagraph (C) for an enterprise community, such Secretary may (in lieu of applying the preceding sentence) reduce by 10 percentage points the threshold under subparagraph (C) for 3 population census tracts.

"(3) EACH NONCONTIGUOUS AREA MUST SATISFY POVERTY RATE RULE.—A nominated area may not include a noncontiguous parcel unless such parcel separately meets (subject to paragraphs (1) and (2)) the criteria set forth in subsection (a)(4).

"(4) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates.

"(c) FACTORS TO CONSIDER.—From among the nominated areas eligible for designation under section 1391 by the appropriate Secretary, such appropriate Secretary shall make designations of empowerment zones and enterprise communities on the basis of—

"(1) the effectiveness of the strategic plan submitted pursuant to section 1391(f)(2) and the assurances made pursuant to section 1391(e)(3), and

"(2) criteria specified by the Enterprise Board.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"(a) IN GENERAL.—For purposes of this subchapter—

"(1) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of any nominated area which is located in an urban area,

"(B) the Secretary of Agriculture in the case of any nominated area which is located in a rural area, and

"(C) the Secretary of the Interior in the case of any nominated area which is located in an Indian reservation.

"(2) ENTERPRISE BOARD.—The term 'Enterprise Board' means any board hereafter established and designated for purposes of this subchapter as the 'Enterprise Board'.

"(3) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(4) URBAN AREA.—The term 'urban area' means an area which is not a rural area.

"(5) INDIAN RESERVATION.—

"(A) IN GENERAL.—The term 'Indian reservation' means a reservation as defined in—

"(i) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(ii) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(B) GOVERNMENTS.—In the case of an area in an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(6) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(7) NOMINATED AREA.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State or States in which it is located for designation under section 1391.

"(8) GOVERNMENTS.—If more than 1 State or local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(9) SPECIAL RULE.—An area shall be treated as nominated by a State and a local government if it is nominated by such other entity as may be specified by the Enterprise Board.

"(10) USE OF CENSUS DATA.—Population and poverty rate shall be determined by the most recent decennial census data available.

"(b) EMPOWERMENT ZONE; ENTERPRISE COMMUNITY.—For purposes of this title, the terms 'empowerment zone' and 'enterprise community' mean areas designated as such under section 1391.

"PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"Sec. 1394. Incentives.

"SEC. 1394. INCENTIVES.

"(a) INCREASE IN LOW INCOME HOUSING CREDIT.—For purposes of section 42(d)(5)(C), a building shall be treated as located in a qualified census tract if—

"(1) such building is located in a census tract having a poverty rate of at least 30 percent (determined in accordance with section 1393(a)(10)), and

"(2) such building is located in an empowerment zone or an enterprise community.

"(b) TAX EXEMPT ENTERPRISE ZONE FACILITY BONDS.—

"(1) IN GENERAL.—For purposes of part IV of subchapter B of chapter 1 (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any enterprise zone facility.

"(2) ENTERPRISE ZONE FACILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'enterprise zone facility' means any qualified zone property the principal user of which is an enterprise zone business (as defined in section 1397D), and any land which is functionally related and subordinate to such property.

"(B) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397B(c); except that—

"(i) section 1397B(c)(3) shall not apply, and

"(ii) the references to empowerment zones shall be treated as including references to enterprise communities.

"(3) LIMITATION ON AMOUNT OF BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any issue if the aggregate amount of outstanding enterprise zone facility bonds allocable to any enterprise zone business (taking into account such issue) exceeds—

"(i) $3,000,000 with respect to any 1 empowerment zone or enterprise community, or

"(ii) $20,000,000 with respect to all empowerment zones and enterprise communities.

"(B) AGGREGATE ENTERPRISE ZONE FACILITY BOND BENEFIT.—For purposes of subparagraph (A), the aggregate amount of outstanding enterprise zone facility bonds allocable to any business shall be determined under rules similar to the rules of section 144(a)(10), taking into account only bonds to which paragraph (1) applies.

"(4) ACQUISITION OF LAND AND EXISTING PROPERTY PERMITTED.—The requirements of sections 147(c)(1)(A) and 147(d) shall not apply to any bond described in paragraph (1).

"(5) PARTIAL EXEMPTION FROM VOLUME CAP.—Only for purposes of section 146, the term 'private activity bond' shall not include 50 percent of any bond issued as part of an issue described in paragraph (1).

"(6) PENALTY FOR CEASING TO MEET REQUIREMENTS.—

"(A) FAILURES CORRECTED.—An issue which fails to meet 1 or more of the requirements of paragraphs (1) and (2) shall be treated as meeting such requirements if—

"(i) the issuer and any principal user in good faith attempted to meet such requirements, and

"(ii) any failure to meet such requirements is corrected within a reasonable period after such failure is first discovered.

"(B) LOSS OF DEDUCTIONS WHERE FACILITY CEASES TO BE QUALIFIED.—No deduction shall be allowed under this chapter for interest on any financing provided from any bond to which paragraph (1) applies with respect to any facility to the extent such interest accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) substantially all of the facility with respect to which the financing was provided ceases to be used in an empowerment zone or enterprise community, or

"(ii) the principal user of such facility ceases to be an enterprise zone business (as defined in section 1397D, but treating references to empowerment zones as including references to enterprise communities).

"(C) EXCEPTION IF ZONE CEASES.—Subparagraphs (A) and (B) shall not apply solely by reason of the termination or revocation of a designation as an empowerment zone or an enterprise community.

"(D) EXCEPTION FOR BANKRUPTCY.—Subparagraphs (A) and (B) shall not apply to any cessation resulting from bankruptcy.

"(c) ENTERPRISE ZONE FACILITY BONDS NOT SUBJECT TO INTEREST DEDUCTION LIMITATIONS ON FINANCIAL INSTITUTIONS.—Any tax-exempt bond described in subsection (b)(1)—

"(1) shall be treated as acquired before August 8, 1986, for purposes of sections 265(b) and 291(e)(1)(B), and

"(2) shall not be taken into account in determining whether any issuer is a qualified small issuer for purposes of section 265(b).

"(d) ADDITIONAL LOW-INCOME HOUSING CREDIT AMOUNT.—

"(1) IN GENERAL.—Each State which includes any empowerment zone or enterprise community shall receive an additional State housing credit ceiling amount for purposes of section 42 of $818,000 for each such zone or community.

"(2) ADDITIONAL AMOUNT MUST BE ALLOCATED TO BUILDINGS IN DESIGNATED AREAS.—

"(A) IN GENERAL.—The portion of the additional amount received under paragraph (1) by reason of any empowerment zone or enterprise community which may be applied to increase the State housing credit ceiling for any calendar year shall not exceed the lesser of—

"(i) the unused portion of such additional amount with respect to such zone or community, or

"(ii) the aggregate housing credit dollar amount allocated from such ceiling for such year to buildings located in such zone or community.

"(B) UNUSED PORTION.—For purposes of subparagraph (A), the unused portion for any calendar year of the additional amount received under paragraph (1) is the amount equal to the excess of—

"(i) the additional amount received under paragraph (1) by the State by reason of the zone or community, over

"(ii) the aggregate of the increases in the State housing credit ceiling by reason of such amount for all prior calendar years.

"(3) AVAILABILITY OF ADDITIONAL AMOUNT.—None of the additional amount received under paragraph (1) may be applied after 1996.

"(4) AREAS LOCATED IN MORE THAN 1 STATE.—In the case of an empowerment zone or enterprise community which is located in more than 1 State, the $818,000 amount shall be allocated among such States in proportion to the population of such zone or community which is within each such State.

"(5) ZONES LOCATED IN CONSTITUTIONAL HOME RULE CITIES.—If any empowerment zone or enterprise community is located in a constitutional home rule city (as defined in section 42(h)(4)(E)), the additional amount received under paragraph (1) shall be allocated to such city and shall not be taken into account in determining such city's share of the State housing credit ceiling under section 42(h)(4)(E).

"PART III—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES

"SUBPART A. Empowerment zone employment credit.

"SUBPART B. Zone resident empowerment savings credit.

"SUBPART C. Depreciation and other incentives.

"Subpart A—Empowerment Zone Employment Credit

"Sec. 1396. Empowerment zone employment credit.

"Sec. 1397. Other definitions and special rules.

"SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the empowerment zone employment credit determined under this section with respect to any employer for any taxable year is the applicable percentage of the qualified zone wages paid or incurred during the calendar year which ends with or within such taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of wages paid or incurred during calendar year:	The applicable percentage is:
1994 through 2000	25
2001	20
2002	15
2003	10
2004	5

"(c) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee.

"(2) ONLY FIRST $20,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—With respect to each qualified zone employee, the amount of qualified zone wages which may be taken into account for a calendar year shall not exceed $20,000.

"(3) COORDINATION WITH TARGETED JOBS CREDIT.—

"(A) IN GENERAL.—The term 'qualified zone wages' shall not include wages taken into account in determining the credit under section 51.

"(B) COORDINATION WITH PARAGRAPH (2).—The $20,000 amount in paragraph (2) shall be reduced for any calendar year by the amount of wages paid or incurred during such year which are taken into account in determining the credit under section 51.

"(d) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an empowerment zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such empowerment zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual employed by the employer for less than 90 days,

"(D) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

"(E) any individual employed by the employer in a trade or business the principal activity of which is farming (within the

meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the employer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the employer which are used in such a trade or business (as determined under regulations prescribed by the Secretary),

exceeds $500,000.

"(3) SPECIAL RULES RELATED TO TERMINATION OF EMPLOYMENT.—

"(A) IN GENERAL.—Paragraph (2)(C) shall not apply to—

"(i) a termination of employment of an individual who before the close of the period referred to in paragraph (2)(C) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(ii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (2)(C), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'wages' has the same meaning as when used in section 51.

"(2) CERTAIN TRAINING AND EDUCATIONAL BENEFITS.—

"(A) IN GENERAL.—The following amounts shall be treated as wages paid to an employee:

"(i) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person not related to the employer.

"(ii) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

"(B) RELATED PERSON.—A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1396 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(d) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Each employer shall take reasonable steps to notify all qualified zone employees of the availability to eligible individuals of receiving advanced payments of the credit under section 32 (relating to the earned income credit).

"Subpart B—Zone Resident Empowerment Savings Credit

"Sec. 1397A. Zone resident empowerment savings credit.

"SEC. 1397A. ZONE RESIDENT EMPOWERMENT SAVINGS CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the zone resident empowerment savings credit determined under this section with respect to any employer for any taxable year is 50 percent of the qualified savings contributions for the taxable year.

"(b) QUALIFIED SAVINGS CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified savings contribution' means any contribution by an employer to a defined contribution plan—

"(A) which is made on behalf of an employee in connection with services performed by such employee while such employee is a qualified zone employee, and

"(B) with respect to which the employee has a nonforfeitable right.

"(2) LIMITATION BASED ON COMPENSATION.—

"(A) IN GENERAL.—The qualified savings contributions taken into account with respect to any qualified zone employee for any taxable year shall not exceed an amount equal to 2 percent of so much of the employee's compensation (as defined in section 414(s)) as does not exceed $35,000.

"(B) ZONE DESIGNATION IN EFFECT FOR PARTIAL YEAR.—If a designation of an area as an empowerment zone is in effect for less than the entire taxable year, the $35,000 amount under subparagraph (A) shall be ratably reduced to reflect the portion of the year such designation is not in effect.

"(3) CERTAIN CONTRIBUTIONS EXCLUDED.—The term 'qualified savings contribution' shall not include any contribution—

"(A) to a plan subject to the funding requirements of section 412,

"(B) to a tax credit employee stock ownership plan (as defined in section 409(a)) or to an employee stock ownership plan (as defined in section 4975(e)(7)),

"(C) to a stock bonus plan, or

"(D) which is an elective deferral (within the meaning of section 402(g)(3)).

"(4) SIMPLIFIED EMPLOYEE PENSION.—A contribution to an individual savings plan pursuant to a simplified employee pension (as defined in section 408(k)) shall be treated as a contribution to a defined contribution plan.

"(c) EMPLOYER REQUIREMENTS.—This section shall apply to an employer for any taxable year only if—

"(1) the employer elects the application of this section, and

"(2) the plan pursuant to which any qualified savings contribution is made provides that any contribution to such plan (whether or not a qualified savings contribution) may be withdrawn by a qualified zone employee as described in section 72(t)(2) (B) or (D).

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ZONE EMPLOYEE.—The term 'qualified zone employee' has the meaning given such term by section 1396(d).

"(2) DEFINED CONTRIBUTION PLAN.—The term 'defined contribution plan' means a defined contribution plan (as defined in section 414(i)) which is described in section 401(a) and includes a trust exempt from tax under section 501(a).

"(e) TREATMENT OF PLANS.—A plan shall not be treated as failing to meet any requirement of part I of subchapter D of chapter 1 by reason of permitting withdrawals required to be permitted under subsection (c)(2).

"Subpart C—Depreciation and Other Incentives

"Sec. 1397B. Depreciation benefits.

"Sec. 1397C. Additional exclusion from volume cap for certain enterprise zone facility bonds.

"Sec. 1397D. Enterprise zone business.

"SEC. 1397B. DEPRECIATION BENEFITS.

"(a) INCREASE IN EXPENSING UNDER SECTION 179.—

"(1) IN GENERAL.—In the case of an enterprise zone business, for purposes of section 179—

"(A) qualified zone property shall be treated as section 179 property,

"(B) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(i) $50,000, or

"(ii) the cost of qualified zone property placed in service during the taxable year, and

"(C) section 179(b)(2) shall be applied by substituting 'by one-half of the amount by which the cost of qualified zone property (other than real property) and other section 179 property' for 'by the amount by which the cost of section 179 property'.

"(b) ACCELERATED DEPRECIATION.—

"(1) IN GENERAL.—For purposes of section 168(a), with respect to qualified zone property of an enterprise zone business, the applicable recovery period shall be determined in accordance with the table contained in paragraph (2) in lieu of the table contained in section 168(c).

"(2) APPLICABLE RECOVERY PERIOD FOR QUALIFIED ZONE PROPERTY.—For purposes of paragraph (1)—

"In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

"(3) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—Paragraph (1) shall apply for purposes of determining alternative minimum taxable income under section 55.

"(c) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone took effect,

"(B) the original use of which in an empowerment zone commences with the taxpayer, and

"(C) substantially all of the use of which is in an empowerment zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) SPECIAL RULE FOR SUBSTANTIAL RENOVATIONS.—In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after the application of section 280F(b) (relating to listed property with limited business use).

"(d) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (c)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(e) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property of any business which ceases to be an enterprise zone business.

"SEC. 1397C. ADDITIONAL EXCLUSION FROM VOLUME CAP FOR CERTAIN ENTERPRISE ZONE FACILITY BONDS.

"(a) IN GENERAL.—Section 1394(b)(5) shall be applied by substituting '75 percent' for '50 percent' in the case of any bond described in section 1394(b)(1) issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are used to provide qualified zone property the principal user of which is any enterprise zone business if the ownership requirements of subsection (b) are met with respect to such business.

"(b) OWNERSHIP REQUIREMENTS.—The ownership requirements of this subsection are met with respect to an enterprise zone business if—

"(1) in the case of a sole proprietorship, the principal place of abode of the proprietor is in an empowerment zone,

"(2) in the case of a corporation, more than 50 percent of the stock (by vote and value) in the corporation is owned (directly or indirectly) by individuals whose principal place of abode is in an empowerment zone, and

"(3) in the case of a partnership, more than 50 percent of the capital and profits interests in the partnership is owned (directly or indirectly) by individuals whose principal place of abode is in an empowerment zone.

"SEC. 1397D. ENTERPRISE ZONE BUSINESS DEFINED.

"(a) IN GENERAL.—For purposes of this subpart, the term 'enterprise zone business' means—

"(1) any qualified business entity, and

"(2) any qualified proprietorship.

"(b) QUALIFIED BUSINESS ENTITY.—For purposes of this section, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(1) every trade or business of such entity is the active conduct of a qualified business within an empowerment zone,

"(2) at least 80 percent of the total gross income of such entity is derived from the active conduct of such business,

"(3) substantially all of the use of the tangible property of such entity (whether owned or leased) is within an empowerment zone,

"(4) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(5) substantially all of the services performed for such entity by its employees are performed in an empowerment zone,

"(6) at least 35 percent of its employees are residents of an empowerment zone,

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(8) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.

"(c) QUALIFIED PROPRIETORSHIP.—For purposes of this section, the term 'qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

"(1) at least 80 percent of the total gross income of such individual from such business is derived from the active conduct of such business in an empowerment zone,

"(2) substantially all of the use of the tangible property of such individual in such business (whether owned or leased) is within an empowerment zone,

"(3) substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,

"(4) substantially all of the services performed for such individual in such business by employees of such business are performed in an empowerment zone,

"(5) at least 35 percent of such employees are residents of an empowerment zone,

"(6) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term 'employee' includes the proprietor.

"(d) QUALIFIED BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified business' means any trade or business.

"(2) RENTAL OF REAL PROPERTY.—The rental to others of real property located in an empowerment zone shall be treated as a qualified business if and only if—

"(A) the property is not residential rental property (as defined in section 168(e)(2)), and

"(B) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.

"(3) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental to others of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

"(4) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(5) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include—

"(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

"(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business, exceeds $500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1397(b) shall apply.

"(e) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this section, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(2) debt instruments described in section 1221(4).

"PART IV—REGULATIONS

"Sec. 1397E. Regulations.

"SEC. 1397E. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of parts II and III, including—

"(1) regulations limiting the benefit of parts II and III in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government,

"(2) regulations preventing abuse of the provisions of parts II and III, and

"(3) regulations dealing with inadvertent failures of entities to be enterprise zone businesses."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of empowerment zones and enterprise communities."

SEC. 14302. EXPANSION OF TARGETED JOBS CREDIT.

(a) ALLOWANCE OF CREDIT FOR HIRING EMPOWERMENT ZONE RESIDENT.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) an economically disadvantaged empowerment zone resident."

(b) ECONOMICALLY DISADVANTAGED EMPOWERMENT ZONE RESIDENT.—Section 51(d) is amended by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively, and by inserting after paragraph (12) the following new paragraph:

"(13) ECONOMICALLY DISADVANTAGED EMPOWERMENT ZONE RESIDENT.—The term 'economically disadvantaged empowerment zone resident' means an individual—

"(A) whose principal place of abode while performing services for the employer is within an empowerment zone, and

"(B) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

Such term shall not include a qualified zone employee (as defined in section 1396(d) without regard to paragraph (2) thereof)."

(c) CONFORMING AMENDMENT.—Subparagraph (C) of section 51(d)(12) is amended by striking "paragraph (14)" and inserting "paragraph (15)".

SEC. 14303. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CERTAIN CREDITS PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a comma, and by adding at the end the following new paragraphs:

"(9) the empowerment zone employment credit determined under section 1396(a), plus

"(10) the zone resident empowerment savings credit determined under section 1397A."

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(4) ENTERPRISE ZONE CREDITS.—No portion of the unused business credit which is attributable to the credit determined under section 1396 (relating to empowerment zone employment credit) or section 1397A (relating to zone resident empowerment savings credit) may be carried to any taxable year ending before January 1, 1994."

(b) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1396(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the empowerment zone employment credit determined under section 1396(a)."

(c) EMPLOYMENT AND SAVINGS CREDITS MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) EMPOWERMENT ZONE CREDITS MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the empowerment zone credits—

"(i) this section and section 39 shall be applied separately with respect to such credits, and

"(ii) for purposes of applying paragraph (1) to such credits—

"(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the empowerment zone credits).

"(B) EMPOWERMENT ZONE CREDITS.—For purposes of this paragraph, the term 'empowerment zone credits' means the portion of the credit under subsection (a) which is attributable to the credits determined under section 1396 (relating to empowerment zone employment credit) and section 1397A (relating to zone resident empowerment savings credit)."

(d) CHANGES RELATING TO EMPOWERMENT ZONE RESIDENT EMPOWERMENT SAVINGS CREDIT.—

(1) DISALLOWANCE OF DEDUCTION.—Section 404 (relating to deduction for certain employer contributions) is amended by adding at the end the following new subsection:

"(m) COORDINATION WITH EMPOWERMENT ZONE CREDIT.—No deduction shall be allowed under this section for any qualified employer contribution taken into account in computing the credit determined under section 1397A."

(2) PENALTY-FREE DISTRIBUTIONS.—

(A) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—

"(i) IN GENERAL.—Distributions to an individual from a qualified retirement plan—

"(I) which are qualified first-time homebuyer distributions (as defined in paragraph (6)),

"(II) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year, or

"(III) to the extent such distributions do not exceed an amount equal to the aggregate investment made by the taxpayer during the taxable year in any enterprise zone business (as defined in section 1397D) that meets the ownership requirements of section 1397C(b).

"(ii) LIMITATION.—Clause (i) shall not apply to the extent that the aggregate amount of the distributions described in clause (i) is greater than the excess of—

"(I) the qualified savings contributions (as defined in section 1397A(b)) of the taxpayer, and any earnings thereon, over

"(II) the aggregate amounts to which clause (i) and the last sentence of paragraph (3)(A) applied for preceding taxable years."

(B) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)(I)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any qualified retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be recontributed to the plan from which it was distributed within 120 days after the date of such distribution.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)(II)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(C) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), or (D)".

(ii) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) subject to the limitation of section 72(t)(2)(D)(ii), the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)), distributions for qualified higher education expenses (as defined in section 72(t)(7)), or distributions for investments described in section 72(t)(2)(D)(i)(III) are made, and".

(e) AMENDMENT OF TARGETED JOBS CREDIT.—Subparagraph (A) of section 51(i)(1) is amended by inserting ", or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity," after "of the corporation".

(f) CARRYOVERS.—Subsection (c) of section 381 (relating to carryovers in certain cor-

porate acquisitions) is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

SEC. 14304. EFFECTIVE DATE.

The amendments made by this part shall take effect on the date of the enactment of this Act.

PART II—CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 14311. CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, the current year business credit shall include the credit determined under this section.

(b) DETERMINATION OF CREDIT.—The credit determined under this section for each taxable year in the credit period with respect to any qualified CDC contribution made by the taxpayer is an amount equal to 5 percent of such contribution.

(c) CREDIT PERIOD.—For purposes of this section, the credit period with respect to any qualified CDC contribution is the period of 10 taxable years beginning with the taxable year during which such contribution was made.

(d) QUALIFIED CDC CONTRIBUTION.—For purposes of this section—

(1) IN GENERAL.—The term "qualified CDC contribution" means any transfer of cash—

(A) which is made to a selected community development corporation during the 5-year period beginning on the date such corporation was selected for purposes of this section,

(B) the amount of which is available for use by such corporation for at least 10 years,

(C) which is to be used by such corporation for qualified low-income assistance within its operational area, and

(D) which is designated by such corporation for purposes of this section.

(2) LIMITATIONS ON AMOUNT DESIGNATED.—The aggregate amount of contributions to a selected community development corporation which may be designated by such corporation shall not exceed $4,000,000.

(e) SELECTED COMMUNITY DEVELOPMENT CORPORATIONS.—

(1) IN GENERAL.—For purposes of this section, the term "selected community development corporation" means any corporation—

(A) which is described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(B) the principal purposes of which include promoting employment of, and business opportunities for, low-income individuals who are residents of the operational area, and

(C) which is selected by the Secretary of Housing and Urban Development for purposes of this section.

(2) ONLY 10 CORPORATIONS MAY BE SELECTED.—

(A) IN GENERAL.—The Secretary of Housing and Urban Development may select 10 corporations for purposes of this section, subject to the availability of eligible corporations. Such selections may be made only before July 1, 1994. At least 4 of the operational areas of the corporations selected must be rural areas (as defined by section 1393(a)(3) of such Code).

(B) PRIORITY OF DESIGNATIONS.—In selecting corporations for purposes of this section, such Secretary shall give priority to corporations with a demonstrated record of performance in administering community development programs which target at least 75 percent of the jobs emanating from their investment funds to low income or unemployed individuals.

(3) OPERATIONAL AREAS MUST HAVE CERTAIN CHARACTERISTICS.—A corporation may be selected for purposes of this section only if its operational area meets the following criteria:

(A) The area meets the size requirements under section 1392(a)(3).

(B) The unemployment rate (as determined by the appropriate available data) is not less than the national unemployment rate.

(C) The median family income of residents of such area does not exceed 80 percent of the median gross income of residents of the jurisdiction of the local government which includes such area.

(f) QUALIFIED LOW-INCOME ASSISTANCE.—For purposes of this section, the term "qualified low-income assistance" means assistance—

(1) which is designed to provide employment of, and business opportunities for, low-income individuals who are residents of the operational area of the community development corporation, and

(2) which is approved by the Secretary of Housing and Urban Development.

Subtitle D—Other Provisions

PART I—DISCLOSURE PROVISIONS

SEC. 14401. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 1997" in the second sentence following clause (viii) and inserting "September 30, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 14402. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer, and

"(iii) the adjusted gross income of such taxpayer.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

"(C) APPLICABLE STUDENT LOAN.—For purposes of this paragraph, the term 'applicable student loan' means—

"(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

"(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

"(D) TERMINATION.—This paragraph shall not apply to any request made after September 30, 1998."

(b) CONFORMING AMENDMENTS.—

(1) So much of paragraph (4) of section 6103(m) as precedes subparagraph (B) thereof is amended to read as follows:

"(4) INDIVIDUALS WHO OWE AN OVERPAYMENT OF FEDERAL PELL GRANTS OR WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF EDUCATION.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

"(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

"(ii) who has defaulted on a loan—

"(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

"(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan ."

(2) Subparagraph (B) of section 6103(m)(4) is amended—

(A) in clause (i), by striking "under part B" and inserting "under part B or D"; and

(B) in clause (ii), by striking "under part E" and inserting "under subpart 1 of part A, or part D or E,";

(3) Section 6103(p) is amended—

(A) in paragraph (3)(A), by striking "(11), or (12), (m)" and inserting "(11), (12), or (13), (m)";

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by striking out "(10), or (11)," and inserting "(10), (11), or (13),", and

(ii) in subparagraph (F)(ii), by striking "(11), or (12)," and inserting "(11), (12), or (13),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) STUDY OF INTERNAL REVENUE SERVICE COLLECTION OF STUDENT LOANS.—

(1) GENERAL RULE.—The Secretary of the Treasury, in consultation with the Secretary of Education, shall conduct a study of the feasibility of implementing a system for the repayment of Federal student loans through wage withholding or other means involving the Internal Revenue Service. Such study shall include an examination of—

(A) whether the Internal Revenue Service could implement such a system within its current resources and without adversely affecting the ability of the Internal Revenue Service to collect tax revenues,

(B) the cumulative impact on voluntary compliance with the tax system of increased disclosure of tax return information and increased Internal Revenue Service involvement in nontax collection activities,

(C) the anticipated effect on the management of Federal student loan collections and on borrower repayment of such loans, and

(D) the ability of the Internal Revenue Service to effectively service student loans.

(2) RECOMMENDATIONS.—Not later than the date 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a report on the study conducted under paragraph (1) (together with such legislative recommendations as such Secretary may deem advisable).

SEC. 14403. USE OF RETURN INFORMATION FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) (relating to the disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(1) in clause (vii), by striking "and" at the end;

(2) in clause (viii), by striking the period at the end and inserting "; and";

(3) by inserting after clause (viii) the following new clause:

"(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs."; and

(4) by adding at the end thereof the following: "Clause (ix) shall not apply after September 30, 1998."

(b) CONFORMING AMENDMENT.—The heading of paragraph (7) of section 6103(l) is amended by inserting after "CODE" the following: ", OR CERTAIN HOUSING ASSISTANCE PROGRAMS".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) STUDY.—The Secretary of the Treasury or his delegate, in consultation with the Secretary of Housing and Urban Development, shall conduct a study on—

(1) whether the information provided under section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 is being used effectively by the Department of Housing and Urban Development,

(2) such Department's compliance with the requirements of section 6103(p) of such Code, and

(3) the impact on the privacy rights of applicants for and participants in housing assistance programs administered by the Department of Housing and Urban Development.

The report of such study shall be submitted before January 1, 1998, to the Congress.

PART II—USER FEE PROVISIONS

SEC. 14411. FEES FOR APPLICATIONS FOR ALCOHOL LABELING AND FORMULA REVIEWS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for—

(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) MINIMUM FEES.—The fee charged under the program required by subsection (a) shall not be less than—

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) APPLICATION OF SECTION.—Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.

(d) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 14412. USE OF HARBOR MAINTENANCE TRUST FUND AMOUNTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Paragraph (3) of section 9505(c) (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

"(3) for the payment of all expenses of administration incurred by the Department of the Treasury in administering subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of $5,000,000 for any fiscal year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 14413. INCREASE IN TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) IN GENERAL.—The table contained in section 4042(a)(2)(A) is amended to read as follows:

"If the use occurs during:	The tax per gallon is:
1994	24 cents
1995	40 cents
1996	55 cents
1997 or thereafter	70 cents."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1994.

PART III—PUBLIC DEBT LIMIT

SEC. 14421. INCREASE IN PUBLIC DEBT LIMIT.

(a) GENERAL RULE.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof "$4,900,000,000,000".

(b) REPEAL OF TEMPORARY INCREASE.—Effective on and after the date of the enactment of this Act, section 1 of Public Law 103-12 is hereby repealed.

PART IV—VACCINE PROVISIONS

SEC. 14431. EXCISE TAX ON CERTAIN VACCINES MADE PERMANENT.

(a) TAX.—Subsection (c) of section 4131 (relating to tax on certain vaccines) is amended to read as follows:

"(c) APPLICATION OF SECTION.—The tax imposed by this section shall apply—

"(1) after December 31, 1987, and before January 1, 1993, and

"(2) during periods after the date of the enactment of this subsection."

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "and before October 1, 1992,".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than 1 year after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable vaccine—

(A) which was sold by the manufacturer, producer, or importer before the date of the enactment of this Act,

(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.

SEC. 14432. CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS OF COSTS OF PEDIATRIC VACCINES.

(a) IN GENERAL.—Paragraph (1) of section 4980B(f) is amended by inserting "the coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) is not reduced below the coverage provided by the plan as of May 1, 1993, and only if" after "only if".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to plan years beginning after the date of the enactment of this Act.

SEC. 14433. CHILDHOOD IMMUNIZATION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9512. CHILDHOOD IMMUNIZATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Childhood Immunization Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Childhood Immunization Trust Fund amounts equivalent to the taxes received in the Treasury under any tax hereafter specified by law for purposes of this subsection.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Childhood Immunization Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out part A of subtitle 3 of title XXI of the Public Health Service Act."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. Childhood Immunization Trust Fund."

TITLE XV—BUDGET PROCESS

SEC. 15001. PURPOSE.

The purposes of this title are to extend through fiscal year 1998 the enforcement of budget legislation by discretionary caps and the pay-as-you-go requirement; to make simplifications and technical corrections to those methods of budget enforcement; to conform congressional budget enforcement to those methods of budget enforcement to the extent possible; and to make permanent the requirement for 5-year, enforceable budget resolutions.

Subtitle A—Budget Enforcement Act of 1993

SEC. 15100. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Budget Enforcement Act of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 15101. DEFINITIONS.

Section 250 is amended as follows:

(1) Strike "**; statement of budget enforcement through sequestration;**" in the section heading and insert "**and**".

(2) Strike subsection (a) and insert the following new subsection:

(a) TABLE OF CONTENTS.—

"Sec. 250. Table of contents and definitions.
"Sec. 251. Discretionary limits.
"Sec. 252. Pay-as-you-go.
"Sec. 253. Enforcing deficit targets.
"Sec. 254. Reports and orders.
"Sec. 255. Exempt programs and activities.
"Sec. 256. General and special sequestration rules.
"Sec. 257. The baseline.
"Sec. 258. Suspension in the event of war or low growth.
"Sec. 258A. Modification of Presidential order.
"Sec. 258B. Alternative defense sequestration.
"Sec. 258C. Special reconciliation process.".

(3) Strike subsections (b) and (c) and insert after subsection (a) the following new subsection:

"(b) DEFINITIONS AND TREATMENTS.—

"As used in this Act:

"(1) The terms 'budget authority', 'new budget authority', 'outlays', and 'deficit' have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 and the term 'receipts' shall be treated as a synonym for the term 'revenues' as it is used in that Act.

"(2) The terms 'sequester' and 'sequestration' refer to or mean the cancellation of budget authority provided by discretionary appropriations or direct spending law.

"(3) The term 'breach' means, for any fiscal year, the amount (if any) by which the baseline level of discretionary new budget authority or outlays for that year exceeds the discretionary limit on new budget authority or outlays for that year.

"(4) The term 'baseline' or 'current policy baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(5) The term 'discretionary limits' refers to the limits on discretionary new budget authority and outlays set forth in section 601 of the Congressional Budget Act of 1974, as adjusted under section 251(b).

"(6) The term 'discretionary' refers to programs (except direct-spending programs) for which new budget authority is provided in appropriation Acts. If an appropriation Act alters the level of direct spending, that effect shall be treated as a discretionary appropriation.

"(7) The term 'direct spending' means budget authority provided by a law other than an appropriation Act or by a law that determines amounts needed to fund mandatory appropriations (including the food stamp program). If a law other than an appropriation Act alters the level of discretionary appropriations, that effect shall be treated as direct spending.

"(8) As used in this Act, all references to mandatory appropriations shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1993.

"(9) The term 'current' means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic and technical assumptions underlying that budget and with respect to estimates that are not included with a budget submission, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget, except to the extent that clerical errors are corrected in the midsession review as required by section 1106 of title 31, United States Code.

"(10) The term 'real economic growth', with respect to any fiscal year, means the growth in the gross domestic product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

"(11) The term 'account' means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, an item for which there is a designated budget account identification code number in the President's budget.

"(12) The term 'budget year' means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

"(13) The term 'current year' means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

"(14) The term 'outyear' means, with respect to a budget year, any of the fiscal years that follow the budget year, through fiscal year 1998 in the case of discretionary programs and through 2002 in the case of direct spending and receipts.

"(15) The term 'OMB' means the Director of the Office of Management and Budget.

"(16) The term 'CBO' means the Director of the Congressional Budget Office.

"(17) The term 'deposit insurance' refers to the expenses of the Federal Deposit Insurance Corporation and the funds it incorporates, the Resolution Trust Corporation, the National Credit Union Administration and the funds it incorporates, the Office of Thrift Supervision, the Comptroller of the Currency Assessment Fund, and the RTC Office of Inspector General.

"(18) The term 'composite discretionary outlay rate' means the percent of new budget authority that is converted to outlays in the fiscal year for which the budget authority is provided and subsequent fiscal years, as follows: 60 percent for the first year, 25 percent for the second year, 7 percent for the third year, and 3 percent for the fourth year.

"(19) The term 'asset sale' means the sale by the Government to the public of a nonloan asset.

"(20) Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.".

SEC. 15102. DISCRETIONARY LIMITS.

Section 251 is amended to read as follows:

"SEC. 251. DISCRETIONARY LIMITS.

"(a) INITIAL AMOUNTS.—Subject to adjustments under subsection (b), the discretionary limits are as set forth in section 601 of the Congressional Budget Act of 1974.

"(b) ADJUSTMENTS TO LIMITS.—Whenever appropriate, adjustments to the discretionary limits (as they exist at the time of the adjustment) for one or more fiscal years shall be made as follows:

"(1) CHANGES IN ACCOUNTING CONCEPTS.—For any fiscal year, the discretionary limits shall be adjusted to reflect any change in budget accounting concepts (including scorekeeping conventions, budget classifications, and definitions), which change shall equal the baseline levels of new budget authority and outlays using up-to-date concepts minus those levels using the concepts in effect before the change.

"(2) CHANGES IN INFLATION.—(A) For the budget year and each outyear, the discretionary limit on new budget authority for each such year shall be multiplied by the inflation adjustment factor (for the fiscal year immediately preceding the current year) calculated under subparagraph (B). The discretionary limit on outlays for each such year shall be adjusted by applying the composite discretionary outlay rate to the change in the limits on new budget authority under the preceding sentence.

"(B) The inflation adjustment factor shall be the ratio of (i) the level of year-over-year inflation measured for the fiscal year immediately preceding the current year, and (ii) the applicable estimated level for that year set forth below:

For 1993, 1.030
For 1994, 1.027
For 1995, 1.026

For 1996, 1.025.
Inflation shall be measured by the average of the estimated fixed-weight gross domestic product price index for a fiscal year divided by the average index for the prior fiscal year.

"(3) IMF FUNDING.—If for any fiscal year an appropriation is enacted to provide to the International Monetary Fund the dollar equivalent, in terms of Special Drawing Rights, of the increase in the United States quota, the limit on discretionary new budget authority shall be increased by the amount of that appropriation.

"(4) IRS FUNDING.—To the extent discretionary appropriations are enacted for fiscal year 1994 or 1995 that provide new budget authority or result in outlays greater than the amount in the CBO baseline of June 1990 for the IRS compliance initiative, the discretionary limits shall be adjusted upward by those amounts, but not to exceed $187,000,000 in new budget authority and $183,000,000 in outlays for fiscal year 1994 and $188,000,000 in new budget authority and outlays for fiscal year 1995.

"(5) NET GUARANTEE COSTS.—The discretionary limits for each fiscal year shall be adjusted by the net costs for that year of the appropriation made under section 601 of Public Law 102-391.

"(6) EXPIRING HOUSING CONTRACTS.—For any fiscal year, the adjustment shall be the amounts by which the costs of renewing expiring multiyear subsidized housing contracts or providing contracts to replace units lost due to prepayments differ from the amounts in OMB's baseline of February 1993.

"(7) EMERGENCIES.—If for any fiscal year discretionary appropriations are enacted that are designated as emergency requirements by statute, the adjustment shall be the amount of those appropriations that the President also designates in writing as emergency requirements and the outlays estimated to flow therefrom in each fiscal year. If any amount previously designated as an emergency requirement is rescinded, the adjustment shall be the amount of that rescission and the outlays estimated to be saved thereby in each fiscal year.

"(8) TECHNICAL ESTIMATING DIFFERENCES.—

"(A) If for any fiscal year the amount of discretionary new budget authority provided in appropriation Acts exceeds the discretionary limit on new budget authority due to technical estimates made by OMB, the adjustment is the amount of the excess, but not to exceed 1/10 of 1 percent of that limit.

"(B) If for any fiscal year discretionary outlays exceed the discretionary limit on outlays but discretionary new budget authority does not exceed its limit (after application of a sequestration under subsection (d)(1)(A), if necessary), the adjustment in outlays is the amount of that excess; but the adjustment in any fiscal year shall not exceed the lesser of (i) $6,500,000,000 less the outlay adjustments made under section 251(b)(2)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985 as in effect immediately before the enactment of this Act (or that would have been made under that subparagraph if that Act had applied through fiscal year 1998, with adjustments in new budget authority occurring through fiscal year 1995 and in outlays through fiscal year 1998), or (ii) 1 percent of the discretionary limit on outlays for that year.

"(c) DISCRETIONARY SCORECARD: 1994–1998.—

"(1) ESTABLISHMENT OF SCORECARD.—Starting for budget year 1994 and ending for fiscal year 1998, there shall be a scorecard upon which shall be entered the amount of discretionary new budget authority and outlays enacted into law for the budget year and the current year (except current year 1993). Entries shall be made separately for each fiscal year. Discretionary new budget authority and outlays for the budget year resulting from the enactment of a law in a previous session shall be attributed to the corresponding law enacted in the current session. Reductions in new budget authority and outlays through the imposition of a sequestration under this section shall also be entered upon the scorecard. Amounts shall be entered on the scorecard within 5 days after the enactment of each such law or the imposition of any sequestration, shall equal the amounts contained in the bill cost reports under section 254(e), and may not thereafter be altered except to correct clerical errors or errors in the application of this Act. The entry for each such law or sequestration shall be displayed separately.

"(2) LOOKBACK.—(A) If after June 30 any discretionary appropriation is enacted that would breach the discretionary limit on new budget authority or outlays for the current year, then that breach shall be entered on the scorecard as a cost under the column for the budget year.

"(B) If any discretionary appropriation is enacted after June 30, 1993, that would have breached a discretionary spending limit for fiscal year 1993 (under this Act and title VI of the Congressional Budget Act of 1974 as in effect immediately before the date of enactment of the Budget Enforcement Act of 1993), then that breach shall be entered on the scorecard as a cost under the column for the budget year.

"(d) ENFORCING DISCRETIONARY LIMITS.—

"(1) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session there shall be a sequestration to reduce the amount of nonexempt discretionary budget authority in the current policy baseline for the budget year of that session by—

"(A) the amount needed to eliminate a breach of the discretionary limit on new budget authority for that year, and

"(B) if any breach of the discretionary limit on outlays remains, the amount needed to eliminate that breach for that year,

as measured under subsection (c), unless the total amount under subparagraphs (A) and (B) is less than $50,000,000.

"(2) UNIFORM REDUCTION.—Each nonexempt account (or activity within an account) shall be reduced by a dollar amount calculated by multiplying the baseline level of nonexempt gross discretionary budget authority for that account or activity by the uniform percent necessary to reduce net new budget authority by the amount in paragraph (1), except that the health programs set forth in section 256(e) shall not be reduced more than 2 percent and the uniform percent applicable to all other programs shall be increased (if necessary) to a level sufficient to achieve the amount in paragraph (1).

"(3) MILITARY PERSONNEL.—If the President uses the authority under section 255(f) to exempt any amounts appropriated for military personnel from sequestration, all remaining nonexempt discretionary budget authority within subfunction 051 shall be further reduced by the uniform percent needed to fully offset the reduction in the amount sequestered resulting from that exemption.

"(4) PART-YEAR APPROPRIATIONS.—If, on the date of a sequestration under paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar reduction calculated for that account under paragraphs (2) and (3) shall be applied to—

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by that appropriation.

"(e) WITHIN-SESSION ENFORCEMENT.—If, after Congress adjourns to end the session for a budget year but before July 1 of that fiscal year, an appropriation for that fiscal year is enacted that causes a discretionary limit to be breached, within 15 days after there shall be a sequestration to eliminate that breach, following the rules and procedures set forth in subsection (d).".

SEC. 15103. PAY-AS-YOU-GO.

Section 252 is amended to read as follows:

"SEC. 252. PAY-AS-YOU-GO.

"(a) PAY-AS-YOU-GO SCORECARD.—

"(1) ESTABLISHMENT OF SCORECARD: 1994–2002.—There shall be a scorecard for each fiscal year through 2002 upon which shall be entered the 5-year estimated increase or decrease in the deficit (relative to the current policy baseline described in section 257) for the budget year and each outyear, as calculated under this subsection, resulting from—

"(A) the enactment, after the date of enactment of this Act and before October 1, 1998, of any direct spending or receipts law, or

"(B) the change in the baseline from the application of section 257(b)(3), which relates to certain expiring provisions of law and to veterans' compensation.

Entries under the preceding sentence shall exclude resulting debt service changes and any incidental changes in intragovernmental receipts of Federal retirement trust funds. Amounts shall be entered on the scorecard within 5 days after the enactment of each such law and may not thereafter be altered except to correct clerical errors or errors in the application of this Act. Each entry shall be displayed separately.

"(2) ROLLING 5-YEAR SCOREKEEPING.—Amounts entered on the scorecard established by paragraph (1) shall equal the amounts contained in the bill cost reports under section 254(e) for the budget year and the 4 subsequent fiscal years (except for budget years after 1998), plus any amount required by the lookback provision of paragraph (3).

"(3) LOOKBACK.—If in any session a law is enacted affecting the current-year level of direct spending or receipts, the amount of that current-year effect shall be entered on the scorecard under the column for the budget year (except for budget years after 1998).

"(4) EMERGENCIES.—If after the enactment of this Act a provision of direct spending or receipts legislation is enacted that is designated as an emergency requirement by statute and that the President also designates, in writing, as an emergency requirement, then no entries related to that provision shall be made on the scorecard.

"(5) DEPOSIT INSURANCE.—Provisions of law that provide full funding of, and continuation of, the deposit insurance commitment in effect on September 30, 1993, shall not have their estimated effects entered on the scorecard.

"(b) ENFORCING PAY-AS-YOU-GO.—

"(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session, there shall be a sequestration to offset the amount of any net deficit increase recorded on the pay-as-you-go scorecard under subsection (a) for the budget year, unless that amount is less than $50,000,000.

"(2) ELIMINATING A DEFICIT INCREASE.—The amount required to be sequestered in a fiscal

year under paragraph (1) shall be obtained from non-exempt direct spending accounts (which are assumed to be at the level in the baseline) by sequestration actions taken in the following order:

"(A) The maximum reductions in automatic spending increases permissible under section 256(b) shall be made.

"(B) If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under section 256(c) (foster care and adoption assistance) shall be made.

"(C) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt direct spending account shall be reduced by the uniform percent necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percent applicable to all other direct spending programs under this subparagraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(3) UNIFORM PERCENT.—The uniform percent under paragraph (2) shall be calculated so that the total amount estimated to be saved in all fiscal years by the budget-year or other sequestrations under section 256 shall equal the amount required to be saved under paragraph (1). The total amount estimated to be saved shall exclude resulting debt service changes and any incidental changes in intragovernmental receipts of Federal retirement trust funds.".

SEC. 15104. CONFORMING AMENDMENTS TO SECTION 253.

Section 253 is amended as follows:

(1) In subsection (a), strike "(other" and all that follows through "252,".

(2) In subsection (b)(2), strike "252(e)" and insert "252(a)(4)".

(3) In subsection (d), strike "251(a)(3)" and insert "251(d)(3)".

(4) In subsection (e)(1), strike "256(a)" and insert "256(b)".

(5) In subsection (e)(2), strike "sections 256(b) (guaranteed student loans) and" and insert "section".

(6) In subsection (e)(3), strike "(A)", strike subparagraph (B), and redesignate clauses (i) and (ii) as subparagraphs (A) and (B).

(7) In subsection (g)(1)(B), strike the last sentence.

(8) In subsection (g)(2)(B)(i), strike "252(b)" and insert "254(e)".

SEC. 15105. REPORTS AND ORDERS.

Section 254 is amended to read as follows:

"SEC. 254. REPORTS AND ORDERS.

"(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

Date:	Action to be completed:
5 days before the President's budget submission.	CBO sequestration preview report.
The President's budget submission.	OMB sequestration preview report.
August 10	Notification regarding military personnel.
Weekly, starting the 2d Wednesday in September.	Scorecard reports.
10 days after end of session.	CBO final sequestration report.
15 days after end of session.	OMB final sequestration report; Presidential order.
30 days later	GAO compliance report.

"(b) SUBMISSION AND AVAILABILITY OF REPORTS AND ORDERS.—Each report or order required by this section (except bill cost reports under subsection (e) and scorecard reports under subsection (f)) shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

"(c) SEQUESTRATION PREVIEW REPORTS.—

"(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a), OMB and CBO shall issue a preview report regarding discretionary, pay-as-you-go, and deficit sequestration based on laws enacted through those dates.

"(2) DISCRETIONARY SEQUESTRATION REPORT.—The preview reports shall set forth estimates for the current year and each subsequent year through 1998 of the applicable discretionary limits and an explanation of any adjustments in such limits under section 251. It shall also set forth for the current year and the budget year the estimated discretionary new budget authority and outlays and the amounts remaining under the applicable discretionary limits.

"(3) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth for the budget year and each outyear estimates for each of the following:

"(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252.

"(B) The pay-as-you-go scorecard as of that date, itemizing the entries that add to the net deficit increase or decrease shown under subparagraph (A).

"(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252 at the end of the budget-year session.

"(4) DEFICIT SEQUESTRATION REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The maximum deficit amount, the estimated deficit calculated under section 253(b), the excess deficit, and the margin.

"(B) The amount of reductions required under section 252, the excess deficit remaining after those reductions have been made, and the amount of reductions required under section 253 from defense accounts and from nondefense accounts.

"(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

"(D) The reductions required under sections 253(e)(1) and 253(e)(2).

"(E) The sequestration percentage necessary to achieve the required reduction in nondefense accounts under section 253(e)(3).

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 253(g)(1)(B).

"(5) EXPLANATION OF DIFFERENCES.—The OMB reports shall thoroughly explain the differences between OMB and CBO estimates for each item set forth in this subsection.

"(d) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the date specified in subsection (a), the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 255(f).

"(e) BILL COST REPORTS.—As soon as practicable after Congress completes action on any discretionary appropriation or legislation affecting direct spending or receipts, and after consultation with the committees on the Budget of the House and Senate, CBO shall provide OMB with an estimate of the entry or entries to be made on the appropriate scorecard as a result of that legislation. Within 5 calendar days after the enactment of any such legislation (enacted after the date of enactment of this Act) OMB shall transmit a report to the House of Representatives and the Senate containing the CBO estimate of the scorecard entry or entries for that legislation, OMB's estimate for the same legislation, and a thorough explanation of any difference between the 2 estimates. CBO and OMB shall prepare estimates under this subsection in conformance with the baseline rules under subsection 257, the scorecard rules under section 251 or 252 as applicable, and scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

"(f) SCORECARD REPORTS.—On or before the date specified in subsection (a) and weekly thereafter through the adjournment of Congress, OMB shall transmit a report to the House of Representatives and the Senate containing the discretionary and the pay-as-you-go scorecards prepared by CBO and OMB, each updated to reflect all bill cost reports issued under subsection (e).

"(g) FINAL SEQUESTRATION REPORTS.—

"(1) REPORTING REQUIREMENT.—On or before the dates specified in subsection (a), OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

"(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

"(A) For the current fiscal year and each subsequent year through 1998 the applicable discretionary limits and an explanation of any adjustments in such limits under section 251(b).

"(B) For the current year and the budget year the estimated discretionary new budget authority and outlays and the budget-year breach, if any.

"(C) The sequestration percentages necessary to achieve the required reduction.

"(D) For the budget year, for each account to be sequestered, estimates of the baseline level of nonexempt budget authority and resulting outlays and the amount of nonexempt budget authority to be sequestered and resulting outlay reductions.

"(3) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORTS.—The final reports shall contain all the information required in the pay-as-you-go and deficit sequestration preview reports. In addition, these reports shall contain, for the budget year, for each account to be sequestered, estimates of the baseline level of outlays for nonexempt direct spending programs and the amount to be sequestered. The reports shall also contain estimates of the outlay effects in each outyear resulting from the sequestration.

"(4) EXPLANATION OF DIFFERENCES.—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under section 252(a), any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of sequestrable resources for any budget account to be reduced if that difference is greater than $5,000,000.

"(h) WITHIN-SESSION SEQUESTRATION REPORTS.—If a within-session sequestration is required under section 251(e), 10 days later

CBO shall issue a report containing the information required in subsection (g)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in subsections (g)(2) and (4).

"(i) PRESIDENTIAL ORDER.—On the day OMB issues a report under subsection (g) or (h), if in that report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. The order shall be effective on issuance.

"(j) GAO COMPLIANCE REPORT.—On the date specified in subsection (a), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this Act, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this Act, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(k) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

"(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

"(2) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarters and the immediately preceding quarter is less than one percent.

"(l) OMB'S ESTIMATING ASSUMPTIONS.—In all reports required by this section, OMB shall use current economic and technical assumptions.".

SEC. 15106. EXEMPT PROGRAMS AND ACTIVITIES.

Section 255 is amended to read as follows:

"SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

"(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, and benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, shall be exempt from reduction under any order issued under this Act.

"(b) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this Act:

"National Service Life Insurance Fund (36–8132–0–7–701);

"Service-Disabled Veterans Insurance Fund (36–4012–0–3–701);

"Veterans Special Life Insurance Fund (36–8455–0–8–701);

"Veterans Reopened Insurance Fund (36–4010–0–3–701);

"United States Government Life Insurance Fund (36–8150–0–7–701);

"Veterans Insurance and Indemnities (36–0120–0–1–701);

"Special Therapeutic and Rehabilitation Activities Fund (36–4048–0–3–703);

"Canteen Service Revolving Fund (36–4014–0–3–705);

"Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36–0120–0–1–701);

"Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36–0155–0–1–701);

"Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36–0137–0–1–702);

"Compensation (36–0153–0–1–701); and

"Pensions (36–0154–0–1–701).

"(c) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this Act.

"(d) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 shall be exempt from reduction under any order issued under this Act.

"(e) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense function, shall be exempt from reduction under any order issued under this Act.

"(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

"(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(d) for the budget year.

"(g) OTHER PROGRAMS AND ACTIVITIES.—

"(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this Act:

"Activities resulting from private donations, bequests, or voluntary contributions to the Government;

"Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–808);

"Alaska Power Administration, Operation and maintenance (89–0304–0–1–271);

"Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

"Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93–454 (1974), as amended (89–4045–0–3–271);

"Bureau of Indian Affairs, Indian land and water claim settlements and miscellaneous payments to Indians (14–2303–0–1–452);

"Bureau of Indian Affairs, Miscellaneous trust funds (14–9973–0–7–999);

"Claims, defense (97–0102–0–1–051);

"Claims, judgments, and relief acts (20–1895–0–1–808);

"Coinage profit fund (20–5811–0–2–803);

"Compact of Free Association, (14–0415–0–1–808);

"Compensation of the President (11–0001–0–1–802);

"Conservation Reserve Program (12-3319-0-1-302)

"Credit liquidating and financing accounts;

"Customs Service, miscellaneous permanent appropriations (20–9922–0–2–806);

"Comptroller of the Currency, Assessment funds (20–8413–0–8–373);

"Dual benefits payments account (60–0111–0–1–601);

"Exchange stabilization fund (20–4444–0–3–155);

"Federal Deposit Insurance Corporation, Bank Insurance Fund (51–4064–0–3–373);

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51–4065–0–3–373);

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51–4066–0–3–373);

"Federal Housing Finance Board (95–4039–0–3–371);

"Federal payment to the railroad retirement accounts (60–0113–0–1–601);

"Foreign military sales trust fund (11–8242–0–7–155);

"Health professions graduate student loan insurance program account (Health Education Assistance Loan Program) (75–0340–0–1–552);

"Higher education facilities loans (91–0240–01–502);

"Internal Revenue collections for Puerto Rico (20–5737–0–2–806);

"Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

"Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);

"Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75–9931–0–3–550);

"National Credit Union Administration operating fund (25–4056–0–3–373);

"National Credit Union Administration, Central liquidity facility (25–4470–0–3–373);

"National Credit Union Administration, Credit union share insurance fund (25–4468–0–3–373);

"Office of Thrift Supervision (20–4108–0–3–373);

"Payment of Vietnam and USS 'Pueblo' prisoner-of-war claims (15–0104–0–1–153);

"Payment to civil service retirement and disability fund (24–0200–0–1–805);

"Payment to Judiciary Trust Funds (10–0941–0–1–752);

"Payments to copyright owners (03–5175–0–2–376);

"Payments to health care trust funds (75–0580–0–1–571);

"Payment to military retirement fund (97–0040–0–1–054);

"Payments to social security trust funds (75–0404–0–1–651);

"Payments to the foreign service retirement and disability fund (11–1036–0–1–153 and 19–0540–0–1–153);

"Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

"Payments to the United States territories, fiscal assistance (14–0418–0–1–806);

"Payments to widows and heirs of deceased Members of Congress (00–0215–0–1–801);

"Postal service fund (18–4020–0–3–372);

"Resolution Trust Corporation Revolving Fund (22–4055–0–3–373);

"Salaries of Article III judges;

"Soldiers' and Airmen's Home, payments of claims (84–8930–0–7–705);

"Southeastern Power Administration, Operation and maintenance (89–0302–0–1–271);

"Southwestern Power Administration, Operation and maintenance (89–0303–0–1–271);

"Tennessee Valley Authority fund, except non-power programs and activities (64–4110–0–3–999);

"Thrift Savings Fund;

"United States Enrichment Corporation Fund (95-4054-0-3-271);

"Vaccine Injury Compensation (75-0320-0-1-551);

"Vaccine Injury Compensation Program Trust Fund (20-8175-0-7-551);

"Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);

"Western Area Power Administration, Construction, rehabilitation, operation, and maintenance (89-5068-0-2-271); and

"Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271).

"(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this Act:

"Black Lung Disability Trust Fund (20-8144-0-7-601);

"Central Intelligence Agency retirement and disability system fund (56-3400-0-1-054);

"Civil service retirement and disability fund (24-8135-0-7-602);

"Comptrollers general retirement system (05-0107-0-1-801);

"Foreign service retirement and disability fund (19-8186-0-7-602);

"Judicial survivors' annuities fund (10-8110-0-7-602);

"Judicial Officers' Retirement Fund (10-8122-0-7-602);

"Claims Court Judges' Retirement Fund (10-8124-0-7-602);

"Special workers compensation expenses (Longshoremen's and harborworkers' compensation benefits) (16-9971-0-7-601);

"Military retirement fund (97-8097-0-7-602);

"National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);

"Pensions for former Presidents (47-0105-0-1-802);

"Rail Industry Pension Fund (60-8011-0-7-601);

"Railroad supplemental annuity pension fund (60-8012-0-7-602);

"Retired pay, Coast Guard (69-0241-0-1-403);

"Retirement pay and medical benefits for commissioned officers, Public Health Service (75-0379-0-1-551);

"Special benefits (Federal Employees' Compensation Act) (16-1521-0-1-600);

"Special benefits for disabled coal miners (75-0409-0-1-601); and

"Tax Court judges survivors annuity fund (23-8115-0-7-602).

"(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this Act:

"Biomass energy development (20-0114-0-1-271);

"United States Treasury check forgery insurance fund (20-4109-0-3-803);

"Employees life insurance fund (24-8424-0-8-602);

"Energy security reserve (Synthetic Fuels Corporation) (20-0112-0-1-271);

"Federal Aviation Administration, Aviation insurance revolving fund (69-4120-0-3-402);

"Federal Crop Insurance Corporation fund (12-4085-0-3-351);

"Federal Emergency Management Agency, National flood insurance fund (58-4236-0-3-453);

"Federal Emergency Management Agency, National insurance development fund (58-4235-0-3-451);

"Geothermal resources development fund (89-0206-0-1-271);

"Homeowners assistance fund, Defense (97-4090-0-3-051);

"International Trade Administration, Operations and administration (13-1250-0-1-376);

"Low-rent public housing, Loans and other expenses (86-4098-0-3-604);

"Maritime Administration, War-risk insurance revolving fund (69-4302-0-3-403);

"Overseas Private Investment Corporation (71-4030-0-3-151);

"Pension Benefit Guaranty Corporation fund (16-4204-0-3-601);

"Rail service assistance (69-0122-0-1-401);

"Department of Veterans Affairs, Servicemen's group life insurance fund (36-4009-0-3-701).

"(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this Act:

"Aid to families with dependent children (75-1501-0-1-609);

"Child nutrition (12-3539-0-1-605);

"Commodity supplemental food program (12-3512-0-1-605);

"Food stamp programs (12-3505-0-1-605 and 12-3550-0-1-605);

"Grants to States for Medicaid (75-0512-0-1-551);

"Supplemental Security Income Program (75-0406-0-1-609); and

"Women, infants, and children program (12-3510-0-1-605).

"(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government, 1994—Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.".

SEC. 15107. GENERAL AND SPECIAL SEQUESTRATION RULES.

Section 256 is amended as follows:

(1) Strike the section heading and insert the following new section heading:

"SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.".

(2) Subsection (a) is amended by striking "part" and inserting "Act".

(3) Subsection (b) is repealed and subsection (a) is redesignated as subsection (b).

(4) A new subsection (a) is inserted, as follows:

"(a) BUDGET-YEAR SEQUESTRATION.—For each direct spending program subject to sequestration under this Act, a sequestration shall apply for the period starting on the date the sequestration order under section 254 is issued and ending on the last day of the budget year, unless a different period is specified in this section. For purposes of section 253, the amount estimated to be saved in all fiscal years by a budget-year sequestration under section 252 or 253 shall be considered to have been saved in the budget year.".

(5) Subsection (e)(1) is amended by striking "be—" and all that follows through "subsequent fiscal year" and inserting "be 2 percent".

(6) Subsection (h)(4) is amended by striking "(D) Office of Thrift Supervision." and "(H) Resolution Funding Corporation." and redesignating the remaining subparagraphs accordingly.

(7) Subsection (j) is amended by striking "joint resolution" and inserting "Act" each place it appears and by amending paragraph (5) to read as follows:

"(5) DAIRY PROGRAM.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundredweight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.".

(8) Subsection (k)(2) is amended by striking the dash the second place it appears and all that follows through "(I)"; and by striking "; or" and all that follows through "(II)" and inserting ", except that a State may not be allotted an amount under this subparagraph that exceeds".

(9) Subsection (l) is redesignated as subsection (m) and is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively".

(12) After subsection (k) add the following new subsection:

"(l) STUDENT LOANS.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 456(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.".

SEC. 15108. THE BASELINE.

Section 257 is amended as follows:

(1) In subsection (a), insert ", and discretionary regulations promulgated as final by," after "through".

(2) In subsection (b), strike "budget year" and insert "current year, the budget year,".

(3) Amend subsection (b)(1) to read as follows:

"(1) IN GENERAL.—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year, funding for mandatory appropriations is assumed to be adequate to make all payments required by those mandates, and regulations over which the President has discretion are assumed to remain in effect as they were at the time the baseline for the budget year was first completed.".

(4) Amend subsection (b)(2)(A) to read as follows:

"(A) No program with estimated current-year gross new budget authority greater than $50,000,000 is assumed to expire in the budget year or outyears. In carrying out the preceding sentence, expiring programs funded by mandatory appropriations or by indefinite budget authority are assumed to continue under the direct spending law in effect just prior to their expiration, and other expiring programs are assumed to continue with new budget authority projected as under subsection (c)(4).".

(5) In subsection (b)(2)(B), insert "percentage" before "increase".

(6) Amend subsection (b)(3) to read as follows:

"(3) CUTOFF DATE.—Programs or taxes that expire on or before December 31 and that have not been reauthorized by the date of the final sequestration report are assumed to expire. If an increase in veterans compensation for the budget year has not been en-

acted by the date of the final sequestration report, it is not assumed.".

(7) In subsection (c), strike "budget year" and insert "current year, the budget year," and strike "all amounts other than those covered by subsection (b)" and insert "discretionary programs".

(8) Paragraphs (1) and (2) of subsection (c) are amended to read as follows:

"(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—

"(A) Gross new budget authority shall be at the level provided for that fiscal year in appropriation Acts and discretionary offsetting collections shall be at the estimated level required by existing law (assuming the baseline level of gross new budget authority).

"(B) If for any account an appropriation has not yet been enacted, gross new budget authority is assumed to be at the level available in the current year, adjusted for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), for inflation as specified in paragraph (4), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

"(2) EXPIRING HOUSING CONTRACTS.—New budget authority to renew expiring multiyear subsidized housing contracts or provide contracts to replace units lost due to prepayments shall be adjusted to reflect the difference in the number of such contracts that are estimated to expire or be prepaid in that fiscal year and the number expiring or being prepaid in the current year.".

(9) In subsection (c)(3), strike "Budgetary" and insert "New budgetary", insert "or number of claims, as applicable," after "population", and insert "the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund," after the colon.

(10) In subsection (c), strike paragraph (4) and redesignate paragraphs (5) and (6) as (4) and (5), respectively.

(11) Amend the first sentence of subsection (c)(4) to read as follows: "The inflator to adjust new budget authority relating to civilian personnel is the percent by which the average rate of basic pay for the general schedule pay system, calculated as specified in sections 5303(a) and 5304 of title 5, United States Code, for that fiscal year exceeds the average rate of basic pay for the current year. The inflator for military personnel is the percent by which the average rate of basic pay, as specified in section 1009 of title 37, United States Code, for that fiscal year exceeds the average rate of basic pay for the current year.".

(12) In the second sentence of subsection (c)(4), strike "used in paragraph (1)" and strike "national" and insert "domestic".

(13) Amend the side heading and first sentence of subsection (c)(5) to read as follows: "PART-YEAR APPROPRIATIONS; PERMISSIVE TRANSFERS.—If, for any account, a continuing appropriation is in effect for less than an entire fiscal year, then the amount available for that fiscal year is assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year.".

(14) In the second sentence of subsection (c)(5), insert "or midsession review" after "original budget".

(15) Amend subsection (e) to read as follows:

"(e) ASSET SALES.—Amounts realized from new asset sales shall not be counted for purposes of this section. Asset sales shall not be considered new if the authority to make those sales was enacted in a prior session of Congress or is a reauthorization of routine, ongoing asset sales at levels consistent with agency operations in fiscal year 1993.".

SEC. 15109. FAST-TRACK PROCEDURES.

(a) REPEALER.—The first section 258 (relating to modification of Presidential orders) is repealed.

(b) CONFORMING AMENDMENT.—In the second section 258, strike "254(j)" each time it appears and insert "254(k)"; strike "310(d)" and insert "310(c)"; and in subsection (a)(4)(A) strike "discharged pursuant" and insert "discharged in the Senate pursuant".

(c) CONFORMING AMENDMENT.—In section 258A(b)(6), strike ", IV, and VI" and insert "and IV".

(d) CONFORMING AMENDMENT.—In section 258B(k), strike "306, and 401(b)(1)" and insert "and 306".

(e) CONFORMING AMENDMENT.—In section 258C(a)(1), strike "sequestration update" and insert "scorecard" and strike "or 253".

SEC. 15110. JUDICIAL REVIEW.

Section 274 is amended as follows:

(1) Strike "252" or "252(b)" each place it occurs and insert "254".

(2) In subsection (d)(1)(A), strike "257(1) to the extent that" and insert "256(b) if", strike the parenthetical phrase, and at the end insert "or".

(3) In subsection (d)(1)(B), strike "new budget" and all that follows through "spending authority" and insert "budgetary resources" and strike "or" after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) Amend subsection (g) to read as follows:

"(g) ECONOMIC DATA, ASSUMPTIONS, AND METHODOLOGIES.—The economic data and economic assumptions used by the Director of OMB in preparing the budget of the United States Government, or in making calculations under this Act, shall not be subject to review in any judicial or administrative proceeding.".

SEC. 15111. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) is amended to read as follows:

"(b) EXPIRATION.—(1) Except as provided by paragraph (2), part C of this Act shall expire on September 30, 2002.

"(2) Sections 251, 257, and 258B of this Act and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire on September 30, 1998, and section 253 of this Act shall expire on September 30, 1995.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this subtitle shall be effective upon enactment for fiscal year 1994 and subsequent fiscal years.

(2) SPECIAL RULE FOR FISCAL YEAR 1993.—For fiscal year 1993, the Balanced Budget and Emergency Deficit Control Act of 1985 and title VI of the Congressional Budget Act of 1974 shall be applied and administered as if this title had not been enacted.

SEC. 15112. DEFICIT REDUCTION TRUST FUND.

(a) A trust fund known as the "Deficit Reduction Trust Fund" (the "Fund") shall be established for the purposes of guaranteeing that the net deficit reduction required by the Omnibus Budget Reconciliation Act of 1993 is fully achieved.

(b) The Fund shall consist only of amounts equal to the net deficit reduction, calculated pursuant to the procedures set forth in subsection (c), that is estimated to result from the Omnibus Budget Reconciliation Act of 1993. Such amounts shall be transferred to the Fund as specified in subsection (c).

(c) Within 10 days of enactment of the Omnibus Budget Reconciliation Act of 1993—

(1) the Director of the Office of Management and Budget shall determine the sum of the net deficit reduction that results from the enactment of the Omnibus Budget Deficit Reduction Act of 1993; and

(2) there shall be transferred from the general fund to the Fund an amount equal to the sum determined in paragraph (1).

(d) Notwithstanding any other provision of law, the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(e) Amounts in the Fund, as determined by the Director of the Office of Management and Budget, that result from the net total of direct spending and receipts provisions calculated according to the provisions of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (the "Act"), shall be excluded from, and shall not be counted for purposes of, the totals under section 252 and sections 254(d)(3) and 254(g)(3) of the Act.

(f) Establishment of and transfers to the Fund as authorized by this section shall not affect trust fund transfers that may be authorized or required by provisions of the Omnibus Reconciliation Act of 1993 other than this section.

(g) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(27) information about, and a separate statement of amounts in, the Deficit Reduction Trust Fund.".

Subtitle B—Amendments to the Congressional Budget and Impoundment Control Act of 1974; Conforming Amendments

SEC. 15201. DEFINITIONS.

Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended as follows:

(1) Repeal the first paragraph (2).

(2) Amend the second paragraph (2) to read as follows:

"(2) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, as follows:

"(i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;

"(ii) borrowing authority, which means authority granted to a Federal entity to borrow, obligate, and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; or

"(iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

"(B) LIMITATIONS ON BUDGET AUTHORITY.—Any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

"(C) LOAN COSTS.—The term 'budget authority' includes the cost for direct loan and loan guarantee programs, as those terms are defined by title V.

"(D) DIRECT SPENDING.—The term 'direct spending' means budget authority provided by law other than an appropriation Act or by a law that determines amounts needed to

fund mandatory appropriations (including the food stamp program), but such term does not include salary or basic pay funded through an appropriation Act.

"(E) NEW BUDGET AUTHORITY.—The term 'new budget authority' means, with respect to a fiscal year—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year.

New budget authority, with respect to a fiscal year, includes a change in the estimated level of the authority to incur obligations in an account that, under existing law, has authority to obligate indefinite amounts, if the change results from a change in law.".

(3) Repeal paragraph (9), redesignate paragraphs (3) through (8) as paragraphs (4) through (9), and insert after paragraph (2) the following new paragraph:

"(3) DEFICIT IMPACT NUMBER (OR SURPLUS IMPACT NUMBER).—The term 'deficit impact number' (or 'surplus impact number') means, with respect to a fiscal year, the change in the deficit (or surplus) that may be caused by any combination of increases or decreases in direct spending and revenue assumed by the most recently agreed to concurrent resolution to be enacted in the current session of Congress and allocated to a committee. An impact number greater than zero increases the deficit (or decreases the surplus) and an impact number less than zero decreases the deficit (or increases the surplus).".

(4) Amend paragraph (6) (as redesignated) by inserting before the period the following: ", and the term 'appropriation measure' means a general or supplemental appropriation bill or a joint resolution making continuing appropriations, but not yet enacted into law".

(5) At the end, add the following new paragraph:

"(11) The term 'new credit authority' means credit authority not provided by law as of February 1, 1986, including any increase in or addition to credit authority provided by law on such date.".

SEC. 15202. CONGRESSIONAL BUDGET OFFICE.

Title II of the Congressional Budget Act of 1974 is amended as follows:

(1) The first section 201(g) is amended by striking "(g)" and inserting "(f)".

(2) The side heading of section 202(f) is amended by striking "TO BUDGET COMMITTEES".

(3) Section 202(f)(1) is amended by striking "On or before February 15 of each year" and inserting "Within 20 days after the President's budget submission".

(4) Section 202(f) is amended by adding at the end the following new paragraphs:

"(4) As soon as practicable after the beginning of each fiscal year, the Director shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

"(A) total new budget authority and total budget outlays for each fiscal year in such period;

"(B) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period; and

"(C) tax expenditures for each fiscal year in such period.

"(5)(A) The Director shall, to the extent practicable, prepare for each bill or joint resolution reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

"(i) an estimate of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

"(ii) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or joint resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate; and

"(iii) a comparison of the estimates of costs described in clauses (i) and (ii), with any available estimates of costs made by such committee or by any Federal agency.

The estimates, comparison, and description so submitted shall be included in the report accompanying such bill or joint resolution if timely submitted to such committee before such report is filed.

"(B) For purposes of subparagraph (A)(ii), the term 'local government' has the same meaning as in section 103 of the Intergovernmental Cooperation Act of 1968.

"(C) For purposes of subparagraph (A)(ii), the term 'significant bill or joint resolution' is defined as any bill or joint resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.".

(5) Section 202(h) is amended by striking "budget outlays, credit authority," and insert "various forms of spending programs, including grants and loans,".

SEC. 15203. CONGRESSIONAL BUDGET PROCESS.

Title III of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE III—CONGRESSIONAL BUDGET PROCESS

"SEC. 300. TIMETABLE.

"The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
First Monday in February.	President submits the budget.
Six weeks after President's budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	House committees report bills authorizing new budget authority.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 30	House completes action on annual appropriation bills and (if required) a reconciliation bill.
October 1	Fiscal year begins.

"SEC. 301. ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET.

"(a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year and for each of the 4 ensuing fiscal years, for the following—

"(1) totals of new budget authority and budget outlays;

"(2) total Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

"(3) the surplus or deficit in the budget;

"(4) new budget authority and budget outlays for each major functional category, based on allocations of the total levels set forth pursuant to paragraph (1);

"(5) the public debt;

"(6) for purposes of Senate enforcement under this title, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and

"(7) for purposes of Senate enforcement under this title, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act (and the related provisions of the Internal Revenue Code of 1986) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.

Except to the extent required by paragraphs (6) and (7), the concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title. Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in the computations required by paragraphs (1) through (5), and no separate display of Hospital Insurance Trust Fund receipts or alternative displays of budget totals excluding Hospital insurance receipts and disbursements are required to be included in any concurrent resolution on the budget.

"(b) ADDITIONAL MATTERS IN CONCURRENT RESOLUTION.—The concurrent resolution on the budget may—

"(1) set forth, if required by subsection (f), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved;

"(2) include reconciliation directives described in section 310;

"(3) set forth the appropriate level of the public debt for purposes of rule XLIX of the Rules of the House of Representatives; and

"(4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act.

"(c) CONSIDERATION OF PROCEDURES OR MATTERS WHICH HAVE THE EFFECT OF CHANGING ANY RULE OF THE HOUSE OF REPRESENTATIVES.—If the Committee on the Budget of the House of Representatives reports any concurrent resolution on the budget which includes any procedure or matter which has the effect of changing any rule of the House of Representatives, such concurrent resolution shall then be referred to the Committee on Rules with instructions to report it within five calendar days (not counting any day on which the House is not in session). The Committee on Rules shall have jurisdiction to report any concurrent resolution referred

to it under this paragraph with an amendment or amendments changing or striking out any such procedure or matter.

"(d) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code, each committee of the House of Representatives having legislative jurisdiction may submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction may submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) which relate to matters within the jurisdiction or functions of such committee. The Joint Economic Committee shall submit to the Committees on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House of Representatives or the Senate may submit to the Committee on the Budget of its House, and any joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsections (a) and (b) which relate to matters within its jurisdiction or functions.

"(e) HEARINGS AND REPORT.—In developing the concurrent resolution on the budget referred to in subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (d) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, including its views on how the estimates of revenues and total levels of new budget authority and outlays set forth in such concurrent resolution are designed to achieve any economic goals it is recommending. The report accompanying such concurrent resolution shall include, but not be limited to—

"(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

"(2) a comparison of the appropriate levels of total budget outlays and total new budget authority as set forth in such concurrent resolution with those estimated or requested in the budget submitted by the President;

"(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and with each such division being subdivided between controllable amounts and all other amounts;

"(4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

"(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives which the committee considered;

"(6) the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

"(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

"(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution; and

"(9) allocations described in sections 302(a) and 311(a).

"(f) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

"(1) If, pursuant to section 4(c) of the Employment Act of 1946, the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or in its most recent action pursuant to this paragraph, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(g) ECONOMIC ASSUMPTIONS.—

"(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

"(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

"(3) Determinations by the Committee on the Budget of the House of Representatives or the Senate, as the case may be, under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.

"(h) BUDGET COMMITTEES CONSULTATION WITH COMMITTEES.—The Committee on the Budget of the House of Representatives shall consult with the committees of its House having legislative jurisdiction during the preparation, consideration, and enforcement of the concurrent resolution on the budget with respect to all matters which relate to the jurisdiction or functions of such committees. The Committee on the Budget of the House of Representatives may not report a concurrent resolution on the budget containing the matter referred to in subsection (b)(3) except after consultation with the Committee on Ways and Means about that matter.

"(i) SOCIAL SECURITY POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate or any amendment thereto that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the concurrent resolution. No change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

"SEC. 302. APPROPRIATION COMMITTEE ALLOCATIONS AND ENFORCEMENT.

"(a) COMMITTEE SPENDING ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels (for the budget year covered by that resolution) of total new budget authority and total outlays for the Committee on Appropriations of each House. The amounts so allocated shall be further divided between discretionary and mandatory amounts, as appropriate.

"(b) SUBDIVISIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House shall subdivide each amount allocated to it for the budget year under subsection (a) among its subcommittees. Each Committee on Appropriations shall promptly report to its House subdivisions made or revised under this subsection.

"(c) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any appropriation measure, or amendment thereto, or motion or conference report thereon, unless and until the Committee on Appropriations of that House reports subdivisions required by subsection (b) consistent with the most recently agreed to concurrent resolution on the budget.

"(d) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 304, the allocations under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

"(e) ALTERATION OF SUBDIVISIONS.—At any time after the Committee on Appropriations of either House reports the subdivisions required to be made under subsection (b), that committee may report to its House an alteration of such subdivisions. Any alteration of such subdivisions must be consistent with any actions already taken by its House on measures within that committee's jurisdiction.

"(f) LEGISLATION SUBJECT TO POINT OF ORDER.—(1) It shall not be in order in the House of Representatives or the Senate to consider any appropriation measure or amendment thereto or motion or conference report thereon, if the new budget authority provided in that measure when added to already enacted levels of new budget authority would cause—

"(A) any allocation of new budget authority made pursuant to subsection (a) under the most recently agreed to concurrent resolution on the budget to be exceeded; or

"(B) any subdivision of new budget authority made pursuant to subsection (b) under the most recently agreed to concurrent reso-

lution on the budget to be exceeded except for a supplemental appropriation for the current fiscal year.

"(2) An appropriation measure, amendment, or conference report shall be considered to violate paragraph (1) only if—

"(A) the enactment of such appropriation measure in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of that measure as so amended; or

"(C) the enactment of such measure in the form recommended in such conference report,

would cause such a violation.

"(g) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(h) ADJUSTMENTS OF ALLOCATIONS OF DISCRETIONARY SPENDING.—(1) If a concurrent resolution on the budget is not adopted by April 30, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, on the first legislative day following April 30, an allocation under subsection (a) to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

"(2) As soon as practicable after an allocation under paragraph (1) is submitted to the House, the Committee on Appropriations shall make subdivisions and promptly report those subdivisions to the House of Representatives.

"(3) Allocations and subdivisions made under this subsection shall, for all purposes of this title, be deemed to be allocations and subdivisions made under subsections (a) and (b), until superseded by allocations and subdivisions made under those sections for the same fiscal year.

"SEC. 303. LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT MAY ONLY DO SO FOR YEARS COVERED BY MOST RECENT BUDGET RESOLUTION.

"(a) IN GENERAL.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report which contains a provision that—

"(A) increases new budget authority;

"(B) decreases revenues; or

"(C) increases or decreases the public debt limit,

first effective in the last fiscal year covered by the most recently agreed to concurrent resolution on the budget or any subsequent fiscal year.

"(2) A bill, joint resolution, amendment, or conference report shall be considered to violate paragraph (1) only if—

"(A) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of the bill or joint resolution as so amended; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause such a violation.

"(b) WAIVER IN THE SENATE.—

"(1) The committee of the Senate which reports any bill or resolution (or amendment thereto) to which subsection (a) applies may at or after the time it reports such bill or resolution (or amendment), report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution (or amendment), and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

"(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

"(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) shall not apply with respect to the bill or resolution (or amendment thereto) to which the resolution so agreed to applies.

"SEC. 304. PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.

"The two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget most recently agreed to and which satisfies the requirements of section 301.

"SEC. 305. PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET.

"(a) PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

"(1) When the Committee on the Budget of the House of Representatives has reported any concurrent resolution on the budget, it is in order subject to clause (2)(l)(6) of rule XI of the Rules of the House of Representatives to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. A motion to resolve into the Committee of the Whole may be made even though a previous motion has been disagreed to.

"(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, and such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable.

"(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and (4)(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

"(5) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and finally reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to consider an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary solely to achieve mathematical consistency. The concurrent resolution is not divisible in the House or in the Committee of the Whole. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

"(6) Debate in the House of Representatives on a conference report on a concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(7) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

"(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

"(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that with respect to any concurrent resolution referred to in section 304(a) all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority lead-

er and the minority leader or their designees.

"(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

"(5) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

"(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

"(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

"(1) A motion to proceed to the consideration of the conference report on any concurrent resolution on the budget (or a reconciliation bill or resolution) may be made even though a previous motion to the same effect has been disagreed to.

"(2) During the consideration in the Senate of the conference report (or a message between Houses) on any concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

"(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

"(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

"(d) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

"(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

"(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

"SEC. 306. LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES.

"No bill, resolution, amendment, motion, or conference report dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

"SEC. 307. HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BY JUNE 10.

"On or before June 10 of each year, the Committee on Appropriations of the House of Representatives shall report annual appropriation bills providing new budget authority under the jurisdiction of all of its subcommittees for the fiscal year which begins on October 1 of that year.

"SEC. 308. REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS.

"(a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR PROVIDING AN INCREASE OR DECREASE IN REVENUES OR TAX EXPENDITURES.—

"(1) Whenever a committee of either House reports to its House a bill or joint resolution providing new budget authority (other than continuing appropriations) or providing an increase or decrease in revenues or tax expenditures for a fiscal year (or fiscal years), the report accompanying that bill or joint resolution shall contain—

"(A) a cost statement comparing the levels in such measure as recommended by that committee to the appropriate allocations and subdivisions submitted under subsections (a) and (b) of section 302 or the appropriate allocation pursuant to section 311(a) for the most recently agreed to concurrent resolution on the budget; or

"(B) the Congressional Budget Office cost estimate required in section 202(f)(5), if timely submitted before such report is filed.

"(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any motion printed in the joint statement of managers to dispose of such amendment on such bill or resolution provides new budget authority (other than continuing appropriations) or provides an increase or decrease in revenues for a fiscal year (or fiscal years), the statement of managers accompanying such conference report shall contain the information required by paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable.

"(b) UP-TO-DATE TABULATIONS OF CONGRESSIONAL BUDGET ACTION.—

"(1) The Director of the Congressional Budget Office shall issue to the committees of the House of Representatives and the Senate reports on at least a monthly basis detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority or providing an increase or decrease in revenues or tax expenditures for each fiscal year covered by a concurrent resolution on the budget. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels (including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding the first fiscal year covered by the appropriate concurrent resolution.

"(2) The Committee on the Budget of each House shall make available to Members of its House summary budget scorekeeping reports. Such reports—

"(A) shall be made available on at least a monthly basis, but in any case frequently enough to provide Members of each House an accurate representation of the current status of congressional consideration of revenue and spending measures;

"(B) shall include, but are not limited to summaries of tabulations provided under subsection (b)(1); and

"(C) shall be based on information provided under subsection (b)(1) without substantive revision.

The chairman of the Committee on the Budget of the House of Representatives shall submit such reports to the Speaker and such reports shall be printed in the Congressional Record.

"SEC. 309. HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS.

"In order that all annual appropriation bills may be considered and approved by the House of Representatives by June 30, bills authorizing budget authority contained in those appropriation bills should be reported to the House of Representatives by May 15.

"SEC. 310. RECONCILIATION.

"(a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTIONS ON THE BUDGET.—A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution, shall—

"(1) specify the total amount by which direct spending contained in laws within the jurisdiction of a committee is to be increased or decreased and direct that committee to determine and recommend changes to accomplish a change of such total amount;

"(2) specify the total amount by which revenues are to be increased or decreased and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws to accomplish a change of such total amount;

"(3) specify the amounts by which the statutory limit on the public debt is to be increased or decreased and direct the committee having jurisdiction to recommend such change; or

"(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) (including a direction to achieve deficit reduction).

"(b) LEGISLATIVE PROCEDURE.—If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws is agreed to in accordance with subsection (a) and—

"(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation measure containing such recommendations; or

"(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations, shall report to its House a reconciliation measure carrying out all such recommendations without any substantive revision.

"(c) AMENDMENTS TO RECONCILIATION BILLS.—

"(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill if such amendment would have the effect of increasing direct spending above the level of such direct spending provided in the bill (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill (for such fiscal years), unless such amendment makes at least an equivalent reduction in other direct spending, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years). A motion to strike a provision providing new budget authority may be in order.

"(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill if such amendment would have the effect of decreasing any direct spending reductions below the level of such direct spending reductions provided (for the fiscal years covered) in the reconciliation instructions which relate to such bill set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill, unless such amendment makes a reduction in other direct spending, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in direct spending or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

"(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

"(4) For purposes of this section, the levels of direct spending and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of either House, as the case may be.

"(5) If a committee or committees of the House fail to meet its directive in recommended changes it has submitted to its Committee on the Budget pursuant to its instruction, the Committee on Rules of the House of Representatives may recommend that the House make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget.

"(d) PROCEDURE IN THE SENATE.—

"(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) and conference reports thereon.

"(2) Debate in the Senate on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

"(e) LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or any amendment thereto or conference report thereon, that contains recommendations to reduce benefits under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

"SEC. 311. DIRECT SPENDING AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS.

"(a) COMMITTEE ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate deficit impact number (or surplus impact number) for the budget year and a total for all fiscal years covered by that resolution for each committee of each House of Congress, except for the Committees on Appropriations. Any item assumed in an allocation to one committee may not be assumed in an allocation to another committee of the same House.

"(b) DISPLAY ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution may include an allocation for display purposes only, consistent with the resolution recommended in the conference report, of the total amount of direct spending and revenue under existing law within the jurisdiction of each committee.

"(c) LEGISLATION SUBJECT TO POINT OF ORDER.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution or amendment increasing the deficit (or lowering the surplus) in any fiscal year covered by the most recently agreed to concurrent resolution on the budget, or any motion or conference report on any such bill or joint resolution, if it would produce a higher deficit (or lower surplus) than an appropriate impact number allocated pursuant to subsection (a).

"(2) A bill, joint resolution, amendment, or conference report shall be considered to exceed an appropriate impact number only if—

"(A) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of the bill or joint resolution as so amended; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause an appropriate impact number allocated pursuant to subsection (a) to be exceeded.

"(d) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, impact numbers shall be determined on the basis of estimates made by the Committee on the Budget of either House, as the case may be.

"SEC. 312. EFFECTS OF POINTS OF ORDER.

"(a) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

"(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.

"SEC. 313. EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION.

"(a) IN GENERAL.—When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 310 (whether that bill or resolution originated in the Senate or the House) or section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (b) shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

"(b) EXTRANEOUS PROVISIONS.—(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 310 shall be considered extraneous if such provision does not produce a change in outlays or revenue, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected (but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of

this subparagraph); (B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous; (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision; (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year; and (F) a provision shall be considered extraneous if it violates section 310(e).

"(2) A Senate-originated provision shall not be considered extraneous under paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which reported the provision certify that: (A) the provision mitigates direct effects clearly attributable to a provision changing outlays or revenue and both provisions together produce a net reduction in the deficit; (B) the provision will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; or (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

"(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if (A) the provision is an integral part of a provision or title, which if introduced as a bill or resolution would be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or (B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.

"(c) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

"(d) CONSIDERATION OF CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 310, upon—

"(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F), and

"(2) such point of order being sustained,

such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for two hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

"(e) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(f) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

SEC. 15204. CONTROL OF BACKDOOR SPENDING.

Title IV of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE IV—CONTROL OF BACKDOOR SPENDING.

"SEC. 401. BILLS PROVIDING NEW SPENDING AUTHORITY.

"(a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report which provides contract or borrowing authority, unless that bill, resolution, conference report, or amendment also provides that such contract or borrowing authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(2) A bill, joint resolution, amendment, or conference report shall be considered to violate paragraph (1) only if—

"(A) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of the bill or joint resolution as so amended; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause such a violation.

"(b) EXCEPTIONS.—

"(1) Subsection (a) shall not apply to contract or borrowing authority if that authority is derived—

"(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

"(B) from any other trust fund, 90 percent or more of the noninterest receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

"(2) Subsection (a) shall not apply to contract or borrowing authority to the extent that—

"(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act, as of the date of enactment of the Budget Enforcement Act of 1993; or

"(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

"SEC. 402. LEGISLATION PROVIDING NEW CREDIT AUTHORITY.

"(a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report which provides new credit authority, unless that bill, resolution, conference report, or amendment also provides that such new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts in accordance with section 504.

"(b) APPLICABILITY.—A bill, joint resolution, amendment, or conference report shall be considered to violate subsection (a) only if—

"(1) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(2) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of the bill or joint resolution as so amended; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause such a violation.

"SEC. 403. OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES.

"(a) Notwithstanding any other provision of law, budget authority, credit authority, and estimates of outlays and receipts for activities of the Federal budget which are off-budget immediately prior to the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985, not including activities of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds and the United States Postal Service, shall be included in a budget submitted pursuant to section 1105 of title 31, United States Code, and in a concurrent resolution on the budget reported pursuant to section 301 or section 304 of this Act and shall be considered, for purposes of this Act, budget authority, outlays, and spending authority in accordance with definitions set forth in this Act.

"(b) All receipts and disbursements of the Federal Financing Bank with respect to any obligations which are issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency for purposes of section 1105 of title 31, United States Code, and for purposes of this Act.

"(c) Notwithstanding any other provision of law, receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.".

SEC. 15205. TITLE V OF THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) SECTION 502.—Section 502 of the Congressional Budget Act of 1974 is amended—

(1) in paragraph (5)(A), by inserting "or a modification thereof" after "loan guarantee";

(2) in paragraph (5)(B), by striking "recoveries." and inserting the following: "recoveries, and routine work-outs of troubled loans or loans in imminent danger of default when those work-outs are to maximize repayments to the Government; and shall include anticipated changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.";

(3) in paragraph (5)(C), by striking ", and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and" and by inserting at the end the following:

"(iii) routine work-outs of troubled loans or loans in imminent danger of default when those work-outs are to minimize claims against the Government; and shall include anticipated changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.";

(4) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) The cost of modification of a direct loan, a direct loan obligation, a loan guarantee, or a loan guarantee commitment shall be the net present value, at the time of the modification, of the change in cash flows estimated to occur as a result of that modification.";

(5) in paragraph (8), is amended by inserting at the end the following new sentence: "Transactions between any financing account and any liquidating account shall be considered non-budgetary."; and

(6) by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following:

"(9) The term 'modification' means any Government action resulting from new legislation or from the exercise of administrative options under existing law that directly or indirectly alters the expected cash flows associated with an outstanding direct loan, direct loan obligation, loan guarantee, or loan guarantee commitment. Modifications include the sale (with or without recourse) of loan assets held by the Government and the purchase by the Government of guaranteed loans. Modifications do not include amounts for routine work-outs of troubled loans or loans in imminent danger of default, or changes in loan terms from the exercise by the borrower of an option included in the loan contract."

(b) SECTION 504.—Section 504 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (b)(1), by striking "appropriations of" and inserting "new", by striking "are made" and inserting "is provided", and by inserting "in appropriation Acts" before the semicolon;

(2) in subsection (b)(2), by striking "enacted" and inserting "provided in an appropriation Act";

(3) in subsection (d)(1), by striking "costs of outstanding direct loans and loan guarantees" and inserting "costs of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)"; and

(4) in subsection (e), by striking "A direct loan obligation or loan guarantee commitment" and inserting "An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment)", by inserting "new" before "budget authority", by striking the comma after "appropriated", and by striking "or from other budgetary resources".

(c) SECTION 505.—Section 505 of the Congressional Budget Act of 1974 is amended—

(1) in the side heading of subsection (b), by inserting "AND LIQUIDATING" before "ACCOUNTS";

(2) in subsection (c), by inserting at the end of the second sentence, before the period, the following: ", except that the rate of interest charged by the secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (the Bank) pursuant to section 403(b) of the Congressional Budget Act of 1974) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 403(b) of the Congressional Budget Act of 1974, any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5) of this Act. All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g).";

(3) at the end of subsection (c), by inserting the following: "This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991."; and

(4) in subsection (d), by striking "If funds in liquidating accounts are insufficient to satisfy the obligations and commitments of said accounts, there" and inserting "There" and by striking "such obligations and commitments" and inserting "the obligations and commitments of liquidating accounts".

(d) SECTION 506.—Section 506 of the Congressional Budget Act of 1974 is repealed.

(e) SECTION 507.—Section 507 of the Congressional Budget Act of 1974 is redesignated as section 506 and is amended to read as follows:

"SEC. 506. EFFECT ON OTHER LAWS.

"(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title, except that nothing in this title shall be construed (1) to alter the terms or conditions authorized to be included in loan or guarantee contracts or the rights and responsibilities of the Government and the recipients of loans or guarantees under those contracts or the laws that authorize them, or (2) to establish a credit limitation on any Federal loan or loan guarantee program.

"(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Periodically and as appropriate, amounts so credited shall be transferred to the Federal Financing Bank to repay those debt obligations held by the Bank that were created to finance the loan being repaid, and all amounts not transferred to the Bank shall be transferred to the general fund of the Treasury. All intragovernmental debt owed to the Treasury by Federal agencies (but not by the public) as a result of loans or guarantees made before October 1, 1991, is hereby canceled and all prepayment penalties are waived. The provisions of this subsection shall not diminish any rights or responsibilities guaranteed by subsection (a).".

SEC. 15206. DISCRETIONARY SPENDING LIMITS.

Title VI of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VI—DISCRETIONARY SPENDING LIMITS

"SEC. 601. DISCRETIONARY SPENDING LIMITS.

"As used in this title and for purposes of the Budget Enforcement Act of 1993, discretionary spending limits, measured in terms of new budget authority and outlays, are as follows:

Fiscal Year	Limits (in millions of dollars)	
	New budget authority	Outlays
1994	500,964	538,688
1995	506,287	541,137
1996	519,142	547,263
1997	528,079	547,346
1998	530,639	547,870

"SEC. 602. EFFECT OF ADJUSTMENTS ON CONSIDERATION OF CERTAIN LEGISLATION IN EITHER HOUSE OF CONGRESS.

"For purposes of congressional consideration of legislation containing any provision subject to any of paragraphs (3) through (7) of section 251(b) or to section 252(a)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985, determinations under titles III and IV shall not take into account any new budget authority, outlays, receipts, or deficit effects in any fiscal year of that provision.".

SEC. 15207. CONTINUING STUDY OF BUDGET REFORM PROPOSALS.

Title VII of the Congressional Budget Act of 1974 is amended by repealing sections 701

and 702 and by redesignating section 703 as section 701.

SEC. 15208. SOCIAL SECURITY PROTECTION.

(a) REDESIGNATIONS.—Sections 13301(a) and 13302 of the Budget Enforcement Act of 1990 are redesignated as sections 801 and 802 of the Congressional Budget Act of 1974.

(b) CHANGE OF TITLE VIII'S HEADING.—The heading of title VIII of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VIII—SOCIAL SECURITY PROTECTION".

SEC. 15209. RULEMAKING POWER.

(a) SECTION 904.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "V, and VI (except section 601(a))" and inserting "V, and VIII" and by striking "701, 703," and inserting "602, 703,".

SEC. 15210. CONFORMING AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) TITLE III.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to title III and inserting the following new items:

"TITLE III—CONGRESSIONAL BUDGET PROCESS

"Sec. 300. Timetable.
"Sec. 301. Annual adoption of concurrent resolution on the budget.
"Sec. 302. Appropriation committee allocations and enforcement.
"Sec. 303. Legislation providing new budget authority or changes in revenues or the public debt limit may only do so for years covered by most recent budget resolution.
"Sec. 304. Permissible revisions of concurrent resolutions on the budget.
"Sec. 305. Provisions relating to the consideration of concurrent resolutions on the budget.
"Sec. 306. Legislation dealing with congressional budget must be handled by budget committees.
"Sec. 307. House committee action on all appropriation bills to be completed by June 10.
"Sec. 308. Reports, summaries, and projections of congressional budget actions.
"Sec. 309. House approval of regular appropriation bills.
"Sec. 310. Reconciliation.
"Sec. 311. Direct spending and revenue legislation must be within appropriate levels.
"Sec. 312. Effects of points of order.
"Sec. 313. Extraneous matter in reconciliation legislation.

(b) TITLE IV.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to title IV and inserting the following new items:

"TITLE IV—CONTROL OF BACKDOOR SPENDING

"Sec. 401. Bills providing new spending authority.
"Sec. 402. Legislation providing new credit authority.
"Sec. 403. Off-budget agencies, programs, and activities.

(c) TITLE VI.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to title VI and inserting the following new items:

"TITLE VI—DISCRETIONARY SPENDING LIMITS

"Sec. 601. Discretionary spending limits.
"Sec. 602. Effect of adjustments on consideration of certain legislation in either House of Congress.

(d) TITLE VIII.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to title VIII and inserting the following new items:

"TITLE VIII—SOCIAL SECURITY PROTECTION

"Sec. 801. Off-budget status of OASDI trust funds.
"Sec. 802. Protection of OASDI trust funds in the House of Representatives.

SEC. 15211. CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.

The Rules of the House of Representatives are amended as follows:

(1) The first sentence of clause 4(g) of rule X is amended by striking "February 25 of each year" and inserting "six weeks after the President's budget submission".

(2) Clause 2(l)(3)(B) of rule XI is amended by striking "section 308(a)(1)" and inserting "section 308(a)(1)(A)".

(3) The first sentence of clause 2(l)(6) of rule XI is amended by striking ", or as provided by section 305(a)(1) of the Congressional Budget Act of 1974 in the case of a concurrent resolution on the budget".

(4) Rule XI is amended by adding at the end the following new clause:

"Amendments may not increase deficit

"7. Before any amendments are offered to a measure under consideration by a standing committee or when a standing committee is adopting written rules governing its procedures, the chairman may entertain a motion requiring that any amendment to a measure or matter before the committee not have the effect of increasing any direct spending above the level of such direct spending provided in such measure or matter or have the effect of reducing any revenues below the level of such revenues provided in the measure or matter, unless such amendment makes at least an equivalent reduction in other direct spending, an equivalent increase in other revenues, or an equivalent combination thereof. A majority of the members of the committee shall be present to adopt such a motion.".

(5) Clause 8 of rule XXIII is amended to read as follows:

"8. At the conclusion of general debate in a Committee of the Whole on a concurrent resolution on the budget within the meaning of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or an amendment to an amendment, unless the concurrent resolution as amended by such amendment or amendments (1) would be mathematically consistent (subject to the third sentence of this clause); and (2) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to such a concurrent resolution on the budget, or an amendment to an amendment, that would change the amount set forth as the appropriate level of the public debt, except that an amendment to achieve mathematical consistency as permitted under section 305(a)(5) of the Congressional Budget Act of 1974, if offered at the direction of the Committee on the Budget, may include an appropriate adjustment of that amount to reflect any changes made in other amounts in the resolution.".

(6) Rule XLIX is amended—

(A) in clause 2, by striking "a limitation" and inserting "an amount"; by striking "301(a)(5)" and inserting "301(b)(3)"; and by striking "; and, if" and all that follows through the period and inserting a period;

(B) in clause 3, by striking "clause 1" and inserting "clause 1)"; and

(C) in clause 4, by striking "clause 1" and inserting "clause 1)".

SEC. 15212. EFFECTIVE DATE.

The amendments made by this subtitle shall be effective upon enactment for fiscal year 1994 and subsequent fiscal years.

Subtitle C—Deficit Reduction Trust Fund

SEC. 15301. DEFICIT REDUCTION TRUST FUND.

(a) A trust fund known as the "Deficit Reduction Trust Fund" (the "Fund") shall be established for the purposes of guaranteeing that the net deficit reduction required by the Omnibus Budget Reconciliation Act of 1993 is fully achieved.

(b) The Fund shall consist only of amounts equal to the net deficit reduction, calculated pursuant to the procedures set forth in subsection (c), that is estimated to result from the Omnibus Budget Reconciliation Act of 1993. Such amounts shall be transferred to the Fund as specified in subsection (c).

(c) Within 10 days of enactment of the Omnibus Budget Reconciliation Act of 1993—

(1) the Director of the Office of Management and Budget shall determine the sum of the net deficit reduction that results from the enactment of the Omnibus Budget Deficit Reduction Act of 1993; and

(2) there shall be transferred from the general fund to the Fund an amount equal to the sum determined in paragraph (1).

(d) Notwithstanding any other provision of law, the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer, but may be used exclusively to pay Treasury debt obligations when they mature.

(e) Amounts in the Fund, as determined by the Director of the Office of Management and Budget, that result from the net total of direct spending and receipts provisions calculated according to the provisions of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (the "Act"), shall be excluded from, and shall not be counted for purposes of, the totals under section 252 and sections 254(d)(3) and 254(g)(3) of the Act.

(f) Establishment of and transfers to the Fund as authorized by this section shall not affect trust fund transfers that may be authorized or required by provisions of the Omnibus Reconciliation Act of 1993 other than this section.

(g) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(27) information about, and a separate statement of amounts in, the Deficit Reduction Trust Fund.".

TITLE XVI—BUDGET CONTROL

SEC. 16001. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Budget Control Act of 1993".

(b) PURPOSE.—The purpose of this title is to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. 16002. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1994

through 1997 shall equal total outlays for all direct spending except net interest and deposit insurance as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the "Director") under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) Not later than 30 days after the date of enactment of this Act, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1994 through 1997.

(2) The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). To the extent feasible, the Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1994 (H.Con.Res. 64).

(c) ADJUSTMENTS.—Direct spending targets shall be subsequently adjusted by the Director under section 16006.

SEC. 16003. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include (1) information supporting the adjustment of direct spending targets pursuant to section 16006, (2) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years, and (3) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this Act.

SEC. 16004. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—In the event that the information submitted by the President under section 16003 indicates —

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target, or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—(1) The special direct spending message shall include:

(A) An explanation of any adjustments to the direct spending targets pursuant to section 16006.

(B) An analysis of the variance in direct spending over the adjusted direct spending targets.

(C) The President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(3) Any proposed legislative change under paragraph (2) to reduce outlays may include reductions in direct spending or in the discretionary spending limits under section 601 of the Congressional Budget Act of 1974.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—

(1) PRESIDENT'S RECOMMENDATIONS TO BE SUBMITTED AS DRAFT RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

(2) RESOLUTION TO BE INTRODUCED IN HOUSE.—Within 10 days after the President's special direct spending message is submitted, the text required by paragraph (1) shall be introduced as a concurrent resolution in the House of Representatives by the chairman of the Committee on the Budget of the House of Representatives without substantive revision. If the chairman fails to do so, after the tenth day the resolution may be introduced by any Member of the House of Representatives. A concurrent resolution introduced under this paragraph shall be referred to the Committee on the Budget.

SEC. 16005. REQUIRED RESPONSE BY CONGRESS.

(a) REQUIREMENT FOR SPECIAL DIRECT SPENDING RESOLUTION.—Whenever the President submits a special direct spending message under section 16004, the Committee on the Budget of the House of Representatives shall report, not later than April 15, the concurrent resolution on the budget and include in it a separate title that meets the requirements of subsections (b) and (c).

(b) CONTENTS OF SEPARATE TITLE.—The separate title of the concurrent resolution on the budget shall contain reconciliation directives to the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts (which in total equal or exceed the reductions recommended by the President, up to the amount of the overage). If this separate title recommends that no legislative changes be made to recoup or eliminate an overage, then a statement to that effect shall be set forth in that title.

(c) REQUIREMENT FOR SEPARATE VOTE TO INCREASE TARGETS.—If the separate title of a concurrent resolution on the budget proposes to recoup or eliminate less than the entire overage for the prior, current, and budget years, then the Committee on the Budget of the House of Representatives shall report a resolution directing the Committee on Government Operations to report legislation increasing the direct spending targets for each applicable year by the full amount of the overage not recouped or eliminated. It shall not be in order in the House of Representatives to consider that concurrent resolution on the budget until the House of Representatives has agreed to the resolution directing the increase in direct spending targets.

(d) CONFERENCE REPORTS MUST FULLY ADDRESS OVERAGE.—It shall not be in order in the House of Representatives to consider a conference report on a concurrent resolution on the budget unless that conference report fully addresses the entirety of any overage contained in the applicable report of the President under section 16004 through reconciliation directives requiring spending reductions, revenue increases, or changes in the direct spending targets.

(e) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE.—If a special direct spending resolution is required and the Committee on the Budget of the House of Representatives fails to report a resolution meeting the requirements of subsections (b) and (c) by April 15, then the committee shall be automatically discharged from further consideration of the concurrent resolution reflecting the President's recommendations introduced pursuant to section 16004(c)(2) and the concurrent resolution shall be placed on the appropriate calendar.

(2) CONSIDERATION BY HOUSE.—Ten days after the Committee on the Budget of the House of Representatives has been discharged under paragraph (1), any Member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable.

(f) APPLICATION OF CONGRESSIONAL BUDGET ACT.—To the extent that they are relevant and not inconsistent with this title, the provisions of title III of the Congressional Budget Act of 1974 shall apply in the House of Representatives and the Senate to special direct spending resolutions, resolutions increasing targets under subsection (c), and reconciliation legislation reported pursuant to directives contained in those resolutions.

SEC. 16006. ADJUSTMENTS TO DIRECT SPENDING TARGETS.

(a) REQUIRED ANNUAL ADJUSTMENTS.—Prior to the submission of the President's budget for each of fiscal years 1995 through 1997, the Director shall adjust the direct spending targets in accordance with this section. Any such adjustments shall be reflected in the targets used in the President's report under section 16003 and message (if any) under section 16004.

(b) ADJUSTMENT FOR INCREASES IN BENEFICIARIES.—(1) The Director shall adjust the direct spending targets for increases (if any) in actual or projected numbers of beneficiaries under direct spending programs for which the number of beneficiaries is a variable in determining costs.

(2) The adjustment shall be made by —

(A) computing, for each program under paragraph (1), the percentage change between (i) the annual average number of beneficiaries under that program (including actual numbers of beneficiaries for the prior fiscal year and projections for the budget and subsequent fiscal years) to be used in the President's budget with which the adjustments will be submitted, and (ii) the annual average number of beneficiaries used in the adjustments made by the Director in the previous year (or, in the case of adjustments made in 1994, the annual average number of beneficiaries used in the Director's initial report under section 16002(b));

(B) applying the percentages computed under subparagraph (A) to the projected lev-

els of outlays for each program consistent with the direct spending targets in effect immediately prior to the adjustment; and

(C) adding the results of the calculations required by subparagraph (B) to the direct spending targets in effect immediately prior to the adjustment.

(3) No adjustment shall be made for any program for a fiscal year in which the percentage increase computed under paragraph (2)(A) is less than or equal to zero.

(c) ADJUSTMENTS FOR REVENUE LEGISLATION.—(1) The Director shall adjust the targets as follows—

(A) they shall be increased by the amount of any increase in receipts; or

(B) they shall be decreased by the amount of any decrease in receipts,

resulting from receipts legislation enacted after the date of enactment of this title, except legislation enacted under section 16005.

(d) ADJUSTMENTS TO REFLECT CONGRESSIONAL DECISIONS.—Upon enactment of a reconciliation bill pursuant to instructions under section 16005, the Director shall adjust direct spending targets for the current year, the budget year, and each outyear through 1997 by—

(1) increasing the target for the current year and the budget year by the amount stated for that year in that reconciliation bill (but if a separate vote was required by section 16005(c), only if that vote has occurred); and

(2) decreasing the target for the current, budget, and outyears through 1997 by the amount of reductions in direct spending enacted in that reconciliation bill.

(e) DESIGNATED EMERGENCIES.—The Director shall adjust the targets to reflect the costs of legislation that is designated as an emergency by Congress and the President under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 16007. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section 16005 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 16008. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections 16004 and 16005 shall not apply.

SEC. 16009. CONSIDERATION OF APPROPRIATION BILLS.

(a) POINT OF ORDER.—It shall not be in order in the House of Representatives to consider any general appropriation bill if the President has submitted a direct spending message under section 16004 until Congress has adopted a concurrent resolution on the budget for the budget year that meets the requirements of section 16005.

(b) WAIVER.—The point of order established by subsection (a) may only be waived for all general appropriation bills for that budget year through the adoption of one resolution waiving that point of order.

SEC. 16010. MEANS-TESTED PROGRAMS.

In making recommendations under sections 16004 and 16005, the President and the Congress should seriously consider all other alternatives before proposing reductions in means-tested programs.

SEC. 16011. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1994 through 1997 and shall expire at the end of fiscal year 1997.

The CHAIRMAN. No amendment to the bill is in order except the amendment printed in part 2 of House Report 103–112. Said amendment shall be considered as read and shall not be subject to amendment.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KASICH

Mr. KASICH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KASICH: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1993".

SEC. 2. TABLE OF CONTENTS.

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 THE JUDICIARY

TITLE VII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

TITLE VIII—COMMITTEE ON NATURAL RESOURCES

TITLE IX—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

TITLE X—COMMITTEE ON PUBLIC WORKS

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

TITLE XII—COMMITTEE ON WAYS AND MEANS—SAVINGS

TITLE XIII—COMMITTEE ON WAYS AND MEANS—REVENUES

TITLE XIV—BUDGET PROCESS

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title and table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Wheat program.
Sec. 1102. Feed grain program.
Sec. 1103. Upland cotton program.
Sec. 1104. Rice program.
Sec. 1105. Dairy program.
Sec. 1106. Tobacco program.
Sec. 1107. Sugar program.
Sec. 1108. Oilseeds program.
Sec. 1109. Peanut program.
Sec. 1110. Honey program.
Sec. 1111. Wool and mohair program.
Sec. 1112. Conforming amendments to continue deficit reduction activities in crop years after 1995.

Subtitle B—Miscellaneous Provisions

Sec. 1121. Maximum expenditures under market promotion program for fiscal years 1994 through 1998.
Sec. 1122. Admission, entrance, and recreation fees.
Sec. 1123. Additional program changes to meet reconciliation requirements.
Sec. 1124. Environmental conservation acreage reserve program amendments.
Sec. 1125. Exemption of triple base acreage from certain conservation requirements.
Sec. 1126. Elimination of malting barley assessment.
Sec. 1127. Reform of the payment limitation provisions of the Food Security Act of 1985.
Sec. 1128. Uniform food stamps reimbursement rates.

Subtitle A—Commodity Programs

SEC. 1101. WHEAT PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a) is amended by striking "85 percent" and inserting "80 percent".

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of wheat.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a)(1), (a)(4)(C), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(3)(A), (e)(3)(C)(iii), (f)(1), and (q), by striking "1995" each place it appears and inserting "1998";

(C) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 1998";

(D) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 1998"; and

(E) in the heading of subsection (e)(1)(G), by striking "1995" and inserting "1998"; and

(F) in subsection (g)(1), by striking "and 1995" and inserting "through 1998".

(2) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title III of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3382) is amended—

(A) in section 302 (7 U.S.C. 1379d note), by striking "May 31, 1996" and inserting "May 31, 1999";

(B) in section 303 (7 U.S.C. 1331 note), by striking "1995" and inserting "1998";

(C) in section 304 (7 U.S.C. 1340 note), by striking "1995" and inserting "1998"; and

(D) in section 305 (7 U.S.C. 1445a note)—

(i) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(ii) by striking "1995" and inserting "1998".

(3) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1995" both places it appears and inserting "1998".

SEC. 1102. FEED GRAIN PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended by striking "85 percent" and inserting "80 percent".

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of feed grains.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a)(1), (a)(4)(C), (a)(6), (b)(1), (c)(1)(A), (c)(1)(B)(iii)(I), (c)(1)(B)(iii)(III), (e)(1)(G), (e)(1)(H), (e)(2)(H), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (p)(1), (q)(1), and (r), by striking "1995" each place it appears and inserting "1998";

(C) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 1998";

(D) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 1998";

(E) in the headings of subsections (e)(1)(G) and (e)(1)(H), by striking "**1995**" both places it appears and inserting "**1998**"; and

(F) in subsection (g)(1), by striking "and 1995" and inserting "through 1998".

(2) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 402 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444b note) is amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(B) by striking "1995" and inserting "1998".

(3) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking "1996" and inserting "1999".

SEC. 1103. UPLAND COTTON PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended by striking "85 percent" and inserting "80 percent".

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of upland cotton.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—(A) Section 103(h)(16) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended by striking "1996" and inserting "1999".

(B) Section 103B of such Act (7 U.S.C. 1444–2) is further amended—

(i) in the section heading, by striking "**1995**" and inserting "**1998**";

(ii) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), (e)(3)(A), (f)(1), and (o), by striking "1995" each place it appears and inserting "1998"; and

(iii) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking "1996" each place it appears and inserting "1999".

(C) Section 203(b) of such Act (7 U.S.C. 1446d(b)) is amended by striking "1995" and inserting "1998".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking "1995" each place it appears and inserting "1998".

(3) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title V of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3421) is amended—

(A) in section 502 (7 U.S.C. 1342 note), by striking "1995" and inserting "1998";

(B) in section 503 (7 U.S.C. 1444 note), by striking "1995" and inserting "1998"; and

(C) in section 505 (7 U.S.C. 1342 note)—

(i) in the section heading, by striking "**1996**" and inserting "**1999**"; and

(ii) by striking "1996" and inserting "1999".

SEC. 1104. RICE PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended by striking "85 percent" and inserting "80 percent".

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of rice.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Such section is further amended—

(1) in the section heading, by striking "**1995**" and inserting "**1998**";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "1998";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "1999";

(4) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 1998"; and

(5) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 1998".

SEC. 1105. DAIRY PROGRAM.

(a) ALLOCATION OF PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK.—

(1) IN GENERAL.—Subsection (c)(3) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(A) in the first sentence of subparagraph (A), by striking "The Secretary" and inserting "Subject to subparagraph (B), the Secretary";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) GUIDELINES.—In allocating the rate of price support between the purchase prices of butter and nonfat dry milk under this paragraph, the Secretary may not—

"(i) offer to purchase butter for more than $0.65 per pound; or

"(ii) offer to purchase nonfat dry milk for less than $1.034 per pound.".

(2) APPLICATION OF AMENDMENTS.—The amendments made by paragraph (1) shall apply with respect to purchases of butter and nonfat dry milk that are made by the Secretary of Agriculture under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) on or after the date of the enactment of this Act.

(b) REDUCTION IN PRICE RECEIVED.—Subsection (h)(2) of such section is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) during each of the calendar years 1996 through 1998, 10 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of each of the calendar years 1996 through 1998 in the manner provided in subparagraph (B).".

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN FISCAL YEARS AFTER 1995.—

(1) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a), (b), (d)(1)(A), (d)(2)(A), (d)(3), (f), (g)(1), and (k), by striking "1995" each place it appears and inserting "1998"; and

(C) in subsection (g)(2), by striking "1994" and inserting "1997".

(2) TRANSFER TO MILITARY AND VETERANS HOSPITALS.—Subsections (a) and (b) of section 202 of such Act (7 U.S.C. 1446a) are amended by striking "1995" both places it appears and inserting "1998".

(3) FEDERAL MILK MARKETING ORDERS.—Section 101(b) of the Agriculture and Food Act of 1981 (7 U.S.C. 608c note) is amended by striking "1995" and inserting "1998".

(4) DAIRY INDEMNITY PROGRAM.—Section 3 of Public Law 90–484 (7 U.S.C. 450*l*) is amended by striking "1995" and inserting "1998".

(5) FOOD SECURITY ACT OF 1985.—The Food Security Act of 1985 is amended—

(A) in section 153 (15 U.S.C. 713a–14), by striking "1995" and inserting "1998"; and

(B) in section 1163 (7 U.S.C. 1731 note), by striking "1995" each place it appears and inserting "1998".

SEC. 1106. TOBACCO PROGRAM.

(a) TEN PERCENT INCREASE IN MARKETING ASSESSMENT.—Subsection (g)(1) of section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking "equal to" and all that follows through the period and inserting the following: "equal to—

"(A) in the case of the 1991 through 1993 crops of tobacco, .5 percent of the national average price support level for each such crop as otherwise provided for in this section; and

"(B) in the case of the 1994 through 1998 crops of tobacco, .55 percent of the national average price support level for each such crop as otherwise provided for in this section.".

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN FISCAL YEARS AFTER 1995.—Such subsection is further amended by striking "1995" and inserting "1998".

(c) ACREAGE-POUNDAGE QUOTAS FOR TOBACCO.—

(1) DEFINITIONS.—Subsection (a) of section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended—

(A) by inserting "DEFINITIONS.—" after "(a)"; and

(B) by striking paragraphs (2), (3), (4), (5), (6), (7), and (8) and inserting the following new paragraphs:

"(2) FARM ACREAGE ALLOTMENT.—The term 'farm acreage allotment' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by dividing the farm marketing quota by the farm yield.

"(3) FARM YIELD.—The term 'farm yield' means the yield per acre for a farm determined according to regulations issued by the Secretary and which would be expected to result in a quality of tobacco acceptable to the tobacco trade.

"(4) FARM MARKETING QUOTA.—

"(A) IN GENERAL.—The term 'farm marketing quota' for a farm for a marketing year means a number that is equal to the number of pounds of tobacco determined by multiplying—

"(i) the farm marketing quota for the farm for the previous marketing year (prior to any adjustment for undermarketing or overmarketing); by

"(ii) the national factor.

"(B) ADJUSTMENT.—The farm marketing quota determined under subparagraph (A) for a marketing year shall be increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediate preceding marketing year (if marketing quotas were in effect for that year under the program established by this section) is less than or exceeds the farm marketing quota for such year. Notwithstanding the preceding sentence, the farm marketing quota for a marketing year shall not be increased under this subparagraph for undermarketing by an amount in excess of the farm marketing quota determined for the farm for the immediately preceding year

prior to any increase for undermarketing or decrease for overmarketing. If due to excess marketing in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction shall be made for the subsequent marketing year or years.

"(5) NATIONAL FACTOR.—The term 'national factor' for a marketing year means a number obtained by dividing—

"(A) the national marketing quota (less the reserve provided for under subsection (e)); by

"(B) the sum of the farm marketing quotas (prior to any adjustments for undermarketing or overmarketing) for the immediate preceding marketing year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year.".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in the first sentence of subsection (b), by striking "and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco,";

(B) in the first sentence of subsection (c), by striking "and at the same time announce the national acreage allotment and national average yield goal";

(C) in subsection (d)—

(i) in the sixth sentence, by striking ", national acreage allotment, and national average yield goal";

(ii) in the eighth sentence, by striking ", national acreage allotment and national average yield goal"; and

(iii) in the ninth sentence, by striking ", national acreage allotment, and national average goal are" and inserting "is";

(D) in subsection (e)—

(i) in the first sentence, by striking "No farm acreage allotment or farm yield shall be established" and inserting "A farm marketing quota and farm yield shall not be established";

(ii) in the second sentence, by striking "acreage allotment" both places it appears and inserting "marketing quota";

(iii) in the second sentence, by striking "acreage allotments" both places it appears and inserting "marketing quotas"; and

(iv) in the last sentence, by striking "acreage allotment" and inserting "marketing quota"; and

(E) in subsection (g)—

(i) in paragraph (1), by striking "paragraph (a)(8)" and inserting "subsection (a)(4)"; and

(ii) in paragraph (3), by striking "subsection (a)(8)" and inserting "subsection (a)(4)".

(3) FARM MARKETING QUOTA REDUCTIONS.—Subsection (f) of such section is amended to read as follows:

"(f) CAUSES FOR FARM MARKETING QUOTA REDUCTIONS.—(1) When an acreage-poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for a farm shall be reduced by the amount of such kind of tobacco produced on the farm—

"(A) which was marketed as having been produced on a different farm;

"(B) for which proof of disposition is not furnished as required by the Secretary;

"(C) on acreage equal to the difference between the acreage reported by the farm operator or a duly authorized representative and the determined acreage for the farm; and

"(D) as to which any producer on the farm files, or aids, or acquiesces, in the filing of any false report with respect to the production or marketing of tobacco.

"(2) If the Secretary, through the local committee, finds that no person connected with a farm caused, aided, or acquiesced in any irregularity described in paragraph (1), the next established farm marketing quota shall not be reduced under this subsection.

"(3) The reduction required under this subsection shall be in addition to any other adjustments made pursuant to this section.

"(4) In establishing farm marketing quotas for other farms owned by the owner displaced by acquisition of the owner's land by any agency, as provided in section 378 of this Act, increases or decreases in such farm marketing quotas as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency.

"(5) Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316) be leased and sold under the terms and conditions in section 316 of this Act, except that any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred.".

SEC. 1107. SUGAR PROGRAM.

(a) TEN PERCENT INCREASE IN MARKETING ASSESSMENT.—Subsection (i) of section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

(1) in paragraph (1), by striking "equal to" and all that follows through the period and inserting the following: "equal to—

"(A) in the case of marketings during fiscal years 1992 and 1993, .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

"(B) in the case of marketings during fiscal years 1994 through 1999, .198 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).''; and

(2) in paragraph (2), by striking "equal to" and all that follows through the period and inserting the following: "equal to—

"(A) in the case of marketings during fiscal years 1992 and 1993, .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

"(B) in the case of marketings during fiscal years 1994 through 1999, .2123 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.".

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a), (c), (d)(1), and (j), by striking "1995" each place it appears and inserting "1998"; and

(C) in paragraphs (1) and (2) of subsection (i), as amended by subsection (a), by striking "1996" both places it appears and inserting "1999".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Section 359b(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb(a)(1)) is amended by striking "1996" and inserting "1999".

SEC. 1108. OILSEEDS PROGRAM.

(a) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(2) in subsections (b), (c), (e)(1), and (n), by striking "1995" each place it appears and inserting "1998".

SEC. 1109. PEANUT PROGRAM.

(a) ASSESSMENT TO COVER UNANTICIPATED LOSSES IN ADMINISTERING THE PROGRAM.—

(1) ADDITIONAL ASSESSMENT.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following new subsection:

"(h) ADDITIONAL MARKETING ASSESSMENT.—

"(1) TWO PERCENT ASSESSMENT.—In addition to the marketing assessment required by subsection (g), the Secretary shall also provide for a nonrefundable marketing assessment applicable to each of the 1993 through 1998 crops of peanuts and collected and paid in accordance with this subsection. The assessment shall be on a per pound basis in an amount equal to 2 percent of the national average quota or additional peanut support rate per pound, as applicable, for the applicable crop. No peanuts shall be assessed more than 2 percent of the applicable support rate under this subsection.

"(2) FIRST PURCHASERS.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

"(A) collect from the producer a marketing assessment equal to 1 percent of the applicable national average support rate times the quantity of peanuts acquired;

"(B) pay, in addition to the amount collected under subparagraph (A), a marketing assessment in an amount equal to 1 percent of the applicable national average support rate times the quantity of peanuts acquired; and

"(C) remit the amounts required under subparagraphs (A) and (B) to the Commodity Credit Corporation in a manner specified by the Secretary.

"(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment under this subsection and shall remit the assessment by such time as is specified by the Secretary.

"(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a price support loan made under this section, ½ of the assessment under this subsection shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts as provided in subparagraph (B) of paragraph (2). For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds under this subsection shall be treated as having been paid to the producer.

"(5) RESERVE ACCOUNT.—

"(A) ESTABLISHMENT.—The Secretary shall establish in the Commodity Credit Corporation a reserve account to be administered by the Secretary for purposes of this section. There shall be deposited in the reserve account for each crop of peanuts an amount equal to—

"(i) the total amount remitted to the Commodity Credit Corporation under paragraphs

(2) and (3) as the payment of the marketing assessment applicable to that crop of peanuts under this subsection; and

"(ii) the total amount deducted from the proceeds of a price support loan or paid by first purchasers under paragraph (4) as the payment of the marketing assessment applicable to that crop of peanuts under this subsection.

"(B) USE OF RESERVE ACCOUNT.—The Secretary shall use amounts in the reserve account established in this paragraph to cover losses incurred by the Commodity Credit Corporation on the sale or disposal of peanuts.

"(6) APPLICATION OF OTHER PROVISIONS.—Paragraphs (2)(B), (5), and (6) of subsection (g) shall apply with respect to the marketing assessment required by this subsection.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 15 days after the date of the enactment of this Act.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a)(1), (a)(2), (b)(1), and (g)(1), by striking "1995" each place it appears and inserting "1998"; and

(C) in subsection (i) (as redesignated by subsection (a)(1)(A)), by striking "1995" and inserting "1998".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(ii) in subsections (a)(1), (b)(1)(A), (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3), and (f), by striking "1995" each place it appears and inserting "1998";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(ii) in subsection (c), by striking "1995" and inserting "1998";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "1998"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(ii) in subsection (i), by striking "1995" and inserting "1998".

(3) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title VIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3459) is amended—

(A) in section 801 (104 Stat. 3459), by striking "1995" and inserting "1998";

(B) in section 807 (104 Stat. 3478), by striking "1995" and inserting "1998"; and

(C) in section 808 (7 U.S.C. 1441 note), by striking "1995" and inserting "1998".

(c) ASSESSMENT UNDER PEANUT MARKETING AGREEMENT.—Section 8b(b)(1) of the Agricultural Adjustment Act (7 U.S.C. 608b(b)(1)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) any assessment imposed under such agreement shall apply to peanut handlers (as that term is defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to those handlers who have entered into such agreement.".

(d) CUSTOMS TREATMENT OF CERTAIN PEANUT PRODUCTS.—

(1) TEMPORARY ADDITIONAL DUTIES.—Subchapter I of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical order the following new headings:

"9901.11.10	Peanut paste (provided for in subheading 2007.99.65)	55¢/kg	No change	55¢/kg	On or before 7/31/96
9901.11.12	Peanut butter (provided for in subheading 2008.11.00)	55¢/kg	No change	55¢/kg	On or before 7/31/96".

(2) INCLUSION OF PEANUT BUTTER IN QUOTA.—Heading 9904.20.20 of the Harmonized Tariff Schedule of the United States is amended by striking out "(except peanut butter)".

(3) EFFECTIVE DATES.—

(A) TEMPORARY ADDITIONAL DUTIES.—The amendment made by paragraph (1) applies with respect to entries and withdrawals from warehouse for consumption made on or after the 15th day after the date of the enactment of this Act.

(B) QUOTA AMENDMENT.—The amendment made by paragraph (2) applies with respect to entries and withdrawals from warehouse for consumption made after July 31, 1996.

SEC. 1110. HONEY PROGRAM.

(a) REDUCED SUPPORT RATE.—Subsection (a) of section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446h) is amended by striking "53.8 cents" and inserting "50 cents".

(b) PAYMENT LIMITATIONS.—Subsection (e)(1) of such section is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking subparagraph (D); and

(3) by adding at the end the following new subparagraphs:

"(D) $125,000 in the 1994 crop year;

"(E) $100,000 in the 1995 crop year;

"(F) $75,000 in the 1996 crop year; and

"(G) $50,000 in each of the 1997 and subsequent crop years.".

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES.—Subsections (a), (c)(1), and (j) of such section are amended by striking "1995" each place it appears and inserting "1998".

(d) TERMINATION OF ASSESSMENT.—Subsection (i)(1) of such section is amended by striking "1995" and inserting "1993".

SEC. 1111. WOOL AND MOHAIR PROGRAM.

(a) PAYMENT LIMITATIONS.—Section 704(b)(1) of the National Wool Act of 1954 (7 U.S.C. 1783(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking subparagraph (D); and

(3) by adding at the end the following new subparagraphs:

"(D) $125,000 for the 1994 marketing year;

"(E) $100,000 for the 1995 marketing year;

"(F) $75,000 for 1996 marketing year; and

"(G) $50,000 for each of the 1997 and subsequent marketing years.".

(b) MARKETING CHARGES.—Section 706 of National Wool Act of 1954 (7 U.S.C. 1785) is amended by inserting after the second sentence the following new sentence: "In determining the net sales proceeds and national payment rates for shorn wool and shorn mohair the Secretary shall not deduct marketing charges for commissions, coring, or grading.".

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Subsections (a) and (b)(2) of section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) are amended by striking "1995" both places it appears and inserting "1998".

(d) TERMINATION OF MARKETING ASSESSMENT.—Section 704(c) of the National Wool Act of 1954 (7 U.S.C. 1783(c)) is amended by striking "1995" and inserting "1992".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) POLICY OF CONGRESS.—Section 702 of the National Wool Act of 1954 (7 U.S.C. 1781) is amended—

(A) by striking ", strategic," in the first sentence; and

(B) by striking "as a measure of national security and to promote" and inserting "that as a method to promote".

(2) ELIMINATION OF OBSOLETE PROVISION.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782(b)) is amended—

(A) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting "paragraph (2)";

(B) in paragraph (2), by striking "Except as provided in paragraph (3), for" and inserting "For"; and

(C) by striking paragraph (3).

(3) ADVERTISING AND SALES PROMOTION PROGRAMS.—Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended—

(A) by inserting "(a)" after "SEC. 708."; and

(B) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), to the extent that the Secretary determines that the amount of funds that would otherwise be made available under subsection (a) in any marketing year for agreements entered into under such subsection is less than the amount made available under such subsection in the previous marketing year, the difference in such amounts shall be provided from amounts available to support the prices of wool and mohair under section 703 of this title. Any amount provided under this subsection shall be considered to be an expenditure made in connection with payments to producers under this title for purposes of section 705 of this title.

"(2) Paragraph (1) shall not apply if the Secretary determines that any portion of the difference between the amounts made available under subsection (a) between two consecutive marketing years is the result of a per unit reduction in the amount of the assessment imposed under the agreements entered into under such subsection.".

SEC. 1112. CONFORMING AMENDMENTS TO CONTINUE DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.

(a) SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY.—Section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is amended by striking "1995" and inserting "1998".

(b) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Subsections (a)(1), (b), and (c) of section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) are amended by striking "1995" each place it appears and inserting "1998".

(c) DISASTER PAYMENTS.—Section 208 of the Agricultural Act of 1949 (7 U.S.C. 1446i) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**1998**";

(2) in subsection (d), by striking "1995" and inserting "1998".

(d) MISCELLANEOUS.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(1) in section 402(b) (7 U.S.C. 1422(b)), by striking "1995" and inserting "1998";

(2) in section 403(c) (7 U.S.C. 1423(c)), by striking "1995" and inserting "1998";

(3) in section 406(b) (7 U.S.C. 1426(b))—

(A) by striking "1995" each place it appears and inserting "1998"; and

(B) by striking "1996" each place it appears and inserting "1999"; and

(4) in section 408(k)(3) (7 U.S.C. 1428(k)(3)), by striking "1995" and inserting "1998".

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1995" each place it appears and inserting "1998";

(2) in subsections (b)(1) and (b)(2) of section 505 (7 U.S.C. 1465), by striking "1995" each place it appears and inserting "1998"; and

(3) in section 509 (7 U.S.C. 1469), by striking "1995" and inserting "1998".

(f) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended in subsections (a), (b)(1), and (c) by striking "1995" each place it appears and inserting "1998".

(g) AGRICULTURE AND FOOD ACT OF 1981.—Section 1014 of the Agriculture and Food Act of 1981 (7 U.S.C. 4110) is amended by striking "1995" and inserting "1998".

(h) FOOD SECURITY ACT OF 1985.—The Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1354) is amended—

(1) in section 902(c)(2)(A) (7 U.S.C. 1446 note), by striking "1995" and inserting "1998";

(2) in paragraphs (1)(A), (1)(B), and (2)(A) of section 1001 (7 U.S.C. 1308), by striking "1995" each place it appears and inserting "1998";

(3) in section 1001C(a) (7 U.S.C. 1308-3(a)), by striking "1995" both places it appears and inserting "1998";

(4) in section 1017(b) (7 U.S.C. 1385 note), by striking "1995" and inserting "1998"; and

(5) in section 1019 (7 U.S.C. 1310a), by striking "1995" and inserting "1998".

(i) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101-624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "1998"; and

(2) in section 1154(b)(1)(A), by striking "1995" both places it appears and inserting "1998".

(j) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of the Agricultural Reconciliation Act of 1990 (7 U.S.C. 1421 note) is amended in subsections (b)(1), (b)(3), and (d)(1)(C) by striking "1995" each place it appears and inserting "1998".

Subtitle B—Miscellaneous Provisions

SEC. 1121. MAXIMUM EXPENDITURES UNDER MARKET PROMOTION PROGRAM FOR FISCAL YEARS 1994 THROUGH 1998.

(a) LIMITATION.—Section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended by striking "not less than $200,000,000 for each of the fiscal years 1991 through 1995" and inserting "an amount equal to $147,734,000 for each of the fiscal years 1991 through 1998".

(b) APPLICATION OF AMENDMENTS.—The amendment made by this section shall apply with respect to fiscal years beginning after September 30, 1993.

SEC. 1122. ADMISSION, ENTRANCE, AND RECREATION FEES.

(a) AUTHORITY TO IMPOSE FEES.—

(1) ENTRANCE AND ADMISSION FEES.—The Secretary of Agriculture may charge admission or entrance fees at National Monuments, National Volcanic Monuments, National Scenic Areas, and areas of concentrated public use administered by the Secretary.

(2) RECREATION USE FEES.—The Secretary may charge recreation use fees at lands administered by the Secretary in connection with the use of specialized outdoor recreation sites, equipment, services, or facilities, including visitors' centers, picnic tables, boat launching facilities, or campgrounds.

(b) AMOUNT OF FEES.—The amount of the admission, entrance, and recreation fees authorized to be imposed under this section shall be determined by the Secretary.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "area of concentrated public use" means an area administered by the Secretary that meets each of the following criteria:

(A) The area is managed primarily for outdoor recreation purposes.

(B) Facilities and services necessary to accommodate heavy public use are provided in the area.

(C) The area contains at least one major recreation attraction.

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at one or more centralized locations.

(2) The term "boat launching facility" includes any boat launching facility regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

(3) The term "campground" means any campground where a majority of the following amenities are provided, as determined by the Secretary:

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

(F) The personal collection of recreation use fees by an employee or agent of the Secretary.

(G) Reasonable visitor protection.

(H) If campfires are permitted in the campground, simple devices for containing the fires.

(4) The term "Secretary" means the Secretary of Agriculture.

SEC. 1123. ADDITIONAL PROGRAM CHANGES TO MEET RECONCILIATION REQUIREMENTS.

The Secretary of Agriculture shall consolidate personnel and field, regional, and national offices of agencies within the Department of Agriculture in order to reduce personnel and duplicative overhead expenses as a result of the consolidation such that Department expenditures are reduced by—

(1) $90,000,000 in fiscal year 1995;

(2) $97,000,000 in fiscal year 1996;

(3) $135,000,000 in fiscal year 1997; and

(4) $178,000,000 in fiscal year 1998.

SEC. 1124. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS.

(a) ENROLLMENT REQUIREMENT.—

(1) CONSERVATION RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(i) by striking "the amount of acres specified in section 1230(b)" and inserting "a total of not more than 38,000,000 acres during the 1986 through 1995 calendar years"; and

(ii) by striking "each of calendar years 1994 and 1995" and inserting "the 1995 calendar year".

(B) CONFORMING AMENDMENT.—Section 1230(b) of such Act (16 U.S.C. 3830(b)) is amended by striking "to place in" and all that follows through "acres".

(2) WETLANDS RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1237(b) of such Act (16 U.S.C. 3837(b)) is amended to read as follows:

"(b) MINIMUM ENROLLMENT.—The Secretary shall enroll into the wetlands reserve program—

"(1) a total of not less than 330,000 acres by the end of the 1995 calendar year; and

"(2) a total of not less than 975,000 acres during the 1991 through 2000 calendar years.".

(B) CONFORMING AMENDMENT.—Section 1237(c) of such Act (16 U.S.C. 3837(c)) is amended by striking "1995" and inserting "2000".

(b) USE OF COMMODITY CREDIT CORPORATION.—Section 1241 of such Act (16 U.S.C. 3841) is amended—

(1) in subsection (a)—

(A) by striking "(a)(1) During each of the fiscal years ending September 30, 1986, and September 30, 1987" and inserting "(a) During each of the fiscal years 1994 through 2000"; and

(B) by striking paragraph (2); and

(2) in subsection (b), by striking "(A) through (E)" and inserting "A through E".

SEC. 1125. EXEMPTION OF TRIPLE BASE ACREAGE FROM CERTAIN CONSERVATION REQUIREMENTS.

(a) HIGHLY ERODIBLE LAND CONSERVATION.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by adding at the end the following new subsection:

"(i) Notwithstanding any other provision of law, the producers on a farm—

"(1) may designate the specific acres on the farm that are in a quantity equal to the crop acreage base for a crop on the farm less the quantity of payment acres for the crop under section 107B(c)(1)(C)(ii), 105B(c)(1)(C)(ii), 103B(c)(1)(C)(ii), or 101B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(c)(1)(C)(ii), 1444f(c)(1)(C)(ii), 1444-2(c)(1)(C)(ii), or 1441-2(c)(1)(C)(ii)); and

"(2) shall be exempt from the requirements of this subtitle with respect to the specific acres that are designated under paragraph (1).".

(b) WETLAND CONSERVATION.—Section 1222 of such Act (16 U.S.C. 3822) is amended by adding at the end the following new subsection:

"(k) PRODUCTION ON TRIPLE BASE ACREAGE.—Notwithstanding any other provision of law, the producers on a farm—

"(1) may designate the specific acres on the farm that are in a quantity equal to the crop acreage base for a crop on the farm less the quantity of payment acres for the crop under section 107B(c)(1)(C)(ii), 105B(c)(1)(C)(ii), 103(c)(1)(C)(ii), or 101B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(c)(1)(C)(ii), or 1444f(c)(1)(C)(ii), 1444-2(c)(1)(C)(ii), or 1441-2(c)(1)(C)(ii)); and

"(2) shall be exempt from the requirements of this subtitle with respect to the specific acres that are designated under paragraph (1).".

(c) CROPS.—The amendments made by this section shall be effective only for the 1994 through 1998 crops of wheat, feed grains, upland cotton, and rice.

SEC. 1126. ELIMINATION OF MALTING BARLEY ASSESSMENT.

(a) ELIMINATION OF ASSESSMENT.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended by striking subsection (p).

(b) EFFECT ON CALCULATION OF TARGET PRICE FOR BARLEY.—Subsection (c)(1)(B)(iii)(IV)(bb) of such section is amended—

(1) by striking "clause (i)(I)" and inserting "clause (ii)(I);

(2) by striking "primarily"; and

(3) by inserting before the period the following: "or malting purposes".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply beginning with the 1994 crop year for barley.

SEC. 1127. REFORM OF THE PAYMENT LIMITATION PROVISIONS OF THE FOOD SECURITY ACT OF 1985.

(a) REPEAL OF THREE-ENTITY RULE.—Section 1001A(a)(1) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(1) is amended—

(1) in the first sentence by—

(A) striking "substantial beneficial interests in more than two entities" and inserting "a substantial beneficial interest in any other entity"; and

(B) striking "receive such payments as separate persons" and insert "receives such payments as a separate person"; and

(2) by striking the second sentence.

(b) ATTRIBUTION OF PAYMENTS MADE TO CORPORATIONS AND OTHER ENTITIES.—(1) Section 1001(5)(C) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(C)) is amended to read as follows:

"(C) In the case of corporations and other entities included in subparagraph (B), and partnerships, the Secretary shall attribute payments to individuals in proportion to their ownership interests in an entity and in any other entity, or partnership, which owns or controls the entity, or partnership, receiving such payment.".

(2) Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following:

"(c) In the case of corporations and other entities included in section 1001(5)(B) of the Food Security Act of 1985, and partnerships, the Secretary shall attribute payments to individuals in proportion to their ownership interests in such entities and partnerships.".

(c) TRACKING PAYMENTS USING SOCIAL SECURITY NUMBERS.—Section 1001(5)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(A)) is amended—

(1) by striking "and" at the end of subparagraph (i);

(2) by redesignating subparagraph (ii) as subparagraph (iii); and

(3) by inserting after subparagraph (i) the following new subparagraph:

"(ii) providing for the tracking of payments made or attributed to an individual on the basis of the Social Security number of the individual; and".

SEC. 1128. UNIFORM FOOD STAMPS REIMBURSEMENT RATES.

(a) AMENDMENTS.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) in subsection (a)—

(A) by striking "and (5)" and inserting "(5)";

(B) by inserting before the colon the following—

", (6) automated data processing and information retrieval systems subject to the conditions set forth in subsection (g), (7) food stamp program investigations and prosecutions, and (8) implementing and operating the immigration status verification system under section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d))"; and

(C) in the proviso by inserting after "75 per centum" the following:

"through June 30, 1994, 70 percent for the 1-year period beginning July 1, 1994, 60 percent for the 1-year period beginning July 1, 1995, and 50 percent for any subsequent period,";

(2) in subsection (g)—

(A) by inserting "through June 30, 1995, equal to 60 percent for the 1-year period beginning July 1, 1995, and 50 percent effective July 1, 1996," after "1991,"; and

(B) by striking "automatic" and inserting "automated"; and

(3) in subsection (j) by inserting after "100 per centum" the following:

"through June 30, 1994, 70 percent for the 1-year period beginning July 1, 1994, 60 percent for the 1-year period beginning July 1, 1995, and 50 percent for any subsequent period,".

(b) APPLICATION OF AMENDMENTS.—The reductions in enhanced Federal match rates for administration resulting from the amendments made by subsection (a) shall apply to payments to States for expenditures incurred only after—

(A) the end of the State fiscal year that ends during 1994; or

(B) in the case of a State with a State legislature which is not scheduled to have a regular legislative session in 1994, the end of the State fiscal year that ends during 1995;

without regard to whether or not final regulations to carry out such amendments have been promulgated by the Secretary before the end of either of such State fiscal years.

TITLE II—COMMITTEE ON ARMED SERVICES

SEC. 2001. DEFERRAL OF COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES UNTIL AGE 62.

Section 1401a(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of a member or former member under age 62 (other than a member retired under chapter 61 of this title), such increase shall not become payable as part of the retired pay of the member or former member until the month in which the member or former member becomes 62 years of age.".

TITLE III—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.

(a) IN GENERAL.—Section 11(d)(11) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(11)) is amended to read as follows:

"(11) DEPOSITOR PREFERENCE.—

"(A) IN GENERAL.—Subject to section 5(e)(2)(C), amounts realized from the liquidation or other resolution of any insured depository institution by any receiver appointed for such institution shall be distributed to pay claims (other than secured claims to the extent of any such security) in the following order of priority:

"(i) Administrative expenses of the receiver.

"(ii) Any deposit liability of the institution.

"(iii) Any claim of an employee of the institution, other than a senior executive officer (as defined by the Corporation pursuant to section 32(f)), for pay accrued but unpaid as of the date the receiver was appointed for the institution.

"(iv) Any other general or senior liability of the institution (which is not a liability described in clause (v) or (vi)).

"(v) Any obligation subordinated to depositors or other general creditors (which is not an obligation described in clause (vi)).

"(vi) Any obligation to shareholders arising as a result of their status as shareholders (including any depository institution holding company or any shareholder or creditor of such company).

"(B) EFFECT ON STATE LAW.—

"(i) IN GENERAL.—The provisions of subparagraph (A) shall not supersede the law of any State except to the extent such law is inconsistent with the provisions of such subparagraph, and then only to the extent of the inconsistency.

"(ii) PROCEDURE FOR DETERMINATION OF INCONSISTENCY.—Upon the Corporation's own motion or upon the request of any person with a claim described in subparagraph (A)(i) or any State which is submitted to the Corporation in accordance with procedures which the Corporation shall prescribe, the Corporation shall determine whether any provision of the law of any State is inconsistent with any provision of subparagraph (A) and the extent of any such inconsistency.

"(iii) JUDICIAL REVIEW.—The final determination of the Corporation under clause (ii) shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(C) ACCOUNTING REPORT.—Any distribution by the Corporation in connection with any claim described in subparagraph (A)(vi) shall be accompanied by the accounting report required under paragraph (15)(B).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 11(c)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(13)) is amended—

(A) in subparagraph (A), by striking "subject to subparagraph (B),";

(B) by inserting "and" after the semicolon at the end of subparagraph (A);

(C) by striking subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B).

(2) Section 11(g)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1921(g)(4)) is amended by striking "If the Corporation" and inserting "Subject to subsection (d)(11), if the Corporation".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to insured depository institutions for which a receiver is appointed after the date of the enactment of this Act.

SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—The 1st undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 289) is amended to read as follows:

"(a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—

"(1) STOCKHOLDER DIVIDENDS.—

"(A) IN GENERAL.—After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock.

"(B) DIVIDEND CUMULATIVE.—The entitlement to dividends under subparagraph shall be cumulative.

"(2) DEPOSIT OF NET EARNINGS IN SURPLUS FUND.—That portion of net earnings of each Federal reserve bank which remains after dividend claims under subparagraph (A) have been fully met shall be deposited in the surplus fund of the bank.

"(3) PAYMENT TO TREASURY.—During fiscal years 1994 through 1998, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the total paid-in capital and surplus of the member banks of such bank shall be transferred to the Board for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

(b) ADDITIONAL TRANSFERS FOR FISCAL YEARS 1997 AND 1998.—

(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act, the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of $106,000,000 in fiscal year 1997 and a total amount of $107,000,000 in fiscal year 1998.

(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 1997 or 1998, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during the fiscal year for which such transfer is made.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The penultimate undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 290) is amended by striking "The net earnings derived" and inserting "(b) USE OF EARNINGS TRANSFERRED TO THE TREASURY.—The net earnings derived".

(2) The last undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 531) is amended by striking "Federal reserve banks" and inserting "(c) EXEMPTION FROM TAXATION.—Federal reserve banks".

SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended as follows:

(1) CONSENT FORMS.—In subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "(including the Indian housing program under title II of the United States Housing Act of 1937)" before the 1st comma;

(B) in paragraph (1), by striking "and" at the end;

(C) in paragraph (2), by striking the period at the end and inserting "; and";

(D) by inserting after paragraph (2) the following new paragraph:

"(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits."; and

(E) in the last sentence, by striking "This" and inserting the following: "Except as provided in this subsection, this".

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—In subsection (c)(2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting after "compensation law" the following: "or pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 from the Commissioner of Social Security or the Secretary of the Treasury"; and

(II) by inserting "(in the case of information obtained pursuant to such section 303(i))" before "representatives"; and

(ii) in clause (ii), by inserting "or public housing agency" after "owner" each place it appears;

(B) in subparagraph (B), by inserting after "wages" each place it appears the following: ", other earnings or income,"; and

(C) in subparagraph (C), by inserting before the second comma the following: "at a hearing that provides the basic elements of due process".

(3) PENALTY.—In subsection (c)(3)—

(A) in subparagraph (A), by inserting "or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986" after "Social Security Act"; and

(B) in the first sentence of subparagraph (B)—

(i) by striking clause (i) and inserting the following: "(i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), or such section 6103(l)(7)(D)(ix), or"; and

(ii) in clause (ii), by inserting "such section 6103(l)(7)(D)(ix)," after "303(i),".

(4) CONFORMING AMENDMENT.—The heading of subsection (c) of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended by striking "STATE EMPLOYMENT".

SEC. 3004. GNMA REMIC GUARANTEE FEES.

Section 306(g)(3) of the National Housing Act (12 U.S.C. 1721(g)(3)) is amended by adding at the end the following new subparagraph:

"(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection and other related fees shall be charged by the Association in an amount not to exceed the value, as determined by the Association, of the guarantee or commitment to guarantee. The Association shall take such action as may be necessary to reasonably assure that such portion of the value of the guaranties or commitments to guaranty as the Association determines is appropriate accrues to the benefit of mortgagors under mortgages executed after the date of the enactment of this subparagraph by or upon which such securities or notes are backed.

"(ii) For each Federal fiscal year, the Association shall submit a report to the Congress describing any activities of the Association with respect to guarantying and making commitments to guaranty multiclass securities described in clause (i). The report shall be submitted not later than 90 days after the end of the fiscal year for which the report is made and shall identify the extent of such activities during the fiscal year, the size of each transaction closed during the fiscal year involving such securities, the number of mortgages involved in each such transaction, the amount of the fees charged and earned by the Association for such transactions, and any persons receiving payments for any services provided with respect to any such transactions and the amounts of such payments, and shall include an estimate of the portion of the value of the guarantee or commitment to guarantee accruing to the benefit of mortgagors and a description of any action taken by the Association to ensure such accrual.

"(iii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.".

SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PREMIUMS.

To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act, the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate.

SEC. 3006. ADMINISTRATIVE FEES FOR SECTION 8 CERTIFICATE AND VOUCHER PROGRAMS.

(a) IN GENERAL.—Section 8(q)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)(1)) is amended—

(1) by striking the 2d sentence and inserting the following new sentences: "In fiscal year 1994, the amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 7.25 percent of the fair market rental established under subsection (c)(1) for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. After fiscal year 1994, the Secretary may decrease the amount of the fee at such times and in such amounts as the Secretary considers appropriate, except that (A) the fee may not be less than 6.0 percent of such fair market rental at any time, and (B) in fiscal year 1998 and in each fiscal year thereafter, the fee shall be 6.0 percent of such fair market rental."; and

(2) in the last sentence, by striking "fee" and inserting "amount of the fee established under this paragraph, for certain programs,".

(b) EFFECTIVE DATE AND APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments under subsection (a) shall be made and shall take effect on October 1, 1993.

(2) APPLICABILITY.—The amendments made by this section shall apply to any dwelling units covered by an assistance contract under section 8 of the United States Housing Act of 1937 in effect on October 1, 1993, and any units covered by such a contract entered into or renewed on or after such date.

TITLE IV—EDUCATION AND LABOR

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TITLE IV—EDUCATION AND LABOR

Sec. 4000. Table of contents.

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Subtitle A—Higher Education Programs

SEC. 4001. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reconciliation Amendments of 1993".

(b) REFERENCE.—References in this subtitle to "the Act" are references to the Higher Education Act of 1965.

SEC. 4002. SIMPLIFIED FEDERALLY GUARANTEED STUDENT LOAN PROGRAM.

(a) IN GENERAL.—Part B of title IV of the Act is amended—

(1) by redesignating section 427, and all references thereto, as section 426A; and

(2) by inserting after section 426A (as redesignated by paragraph (1)), the following new section:

"SEC. 427. FEDERALLY GUARANTEED STUDENT AND PARENT LOANS.

"(a) FEDERALLY GUARANTEED STUDENT LOAN PROGRAM AUTHORIZED.—The Secretary shall, in accordance with the provisions of this part, carry out a federally guaranteed student loan program for—

"(1) insured loans for eligible students, as required by section 484, who qualify on the basis of need under part F for interest subsidies in accordance with section 428 or who qualify under subsection (c) of this section; and

"(2) insured loans for eligible students, as required by section 484, who do not qualify for interest subsidies under section 428, in accordance with the provisions of this section.

"(b) TERMS, CONDITIONS, AND BENEFITS.—

"(1) IN GENERAL.—Loans made to students described in paragraph (1) of subsection (a) shall have the terms, conditions, and benefits as described in this section and section 428 of this title. Loans made to students described in paragraph (2) of subsection (a) shall have the terms, conditions, and benefits described in paragraph (3) of this subsection.

"(2) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to subsection (a) shall be at the applicable rate of interest provided in section 427A(e).

"(3) SPECIAL RULES FOR UNSUBSIDIZED LOANS FOR STUDENT BORROWERS.—

"(A) ELIGIBLE BORROWER.—Any student meeting the requirements for student eligibility under section 484 shall be entitled to borrow an unsubsidized Stafford Loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(i) sets forth such student's estimated cost of attendance (as determined under section 472);

"(ii) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 428; and

"(iii) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subparagraph (B).

"(B) DETERMINATION OF AMOUNT OF LOAN.—The determination of the amount of a loan by an eligible institution under subparagraph (A) shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subparagraph (A) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

"(C) LOAN LIMITS.—The annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.

"(D) PAYMENT OF PRINCIPAL AND INTEREST.—

"(i) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution.

"(ii) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 427(a)(2)(C) and 428(b)(1)(M) shall, if agreed upon by the borrower and the lender (I) be paid monthly or quarterly, or (II) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(E) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(F) APPLICABLE RATE OF INTEREST.—Interest on loans made pursuant to this paragraph shall be at the applicable rate of interest provided in section 427A(a).

"(G) INSURANCE PREMIUM.—

"(i) AMOUNT OF ORIGINATION FEE/INSURANCE PREMIUM.—The lender shall charge the borrower a combined origination fee and insurance premium in the amount of 6.5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. A guaranty agency may not charge an insurance premium on any loan made under this paragraph.

"(ii) RELATION TO APPLICABLE INTEREST.—Such combined fee and premium shall not be taken into account for purposes of determining compliance with section 427A.

"(iii) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating the combined origination fee and insurance premium.

"(iv) USE OF INSURANCE PREMIUM TO OFFSET DEFAULT COSTS.—Each lender making loans under this paragraph shall transmit all combined origination fee and insurance premiums authorized to be collected from borrowers to the Secretary, who shall use such fees and premiums to pay the Federal costs of default claims paid for loans under this paragraph and to reduce the cost of special allowances paid thereon, if any, under section 438(b).

"(v) REVIEW OF INSURANCE PREMIUM.—In fiscal year 1995, the Secretary is directed to analyze the risk rates of borrowers who have participated in this program in the 2 previous fiscal years. If the Secretary finds, that as a result of this review, the projected defaults and special allowance costs of the unsubsidized program do not exceed the 6.5 percent insurance premium, the Secretary is directed to lower the insurance premium accordingly.

"(H) SINGLE APPLICATION FORM.—A guaranty agency shall use a single application form prescribed by the Secretary for subsidized Federal Stafford loans made pursuant to section 428 and for unsubsidized Federal Stafford Loans made pursuant to this paragraph. The Secretary shall take such steps as may be necessary to incorporate such application form into the single form required by section 483(a).

"(I) SINGLE PROMISSORY NOTE FORM.—A lender of any loan under this section shall use a single standard promissory note prescribed by the Secretary by regulation.

"(c) ADDITIONAL RULES AND LOAN LIMITS FOR GRADUATE, PROFESSIONAL, AND CERTAIN UNDERGRADUATE INDEPENDENT STUDENTS.—

"(1) STUDENT ELIGIBILITY.—Graduate and professional students (as defined by regulations of the Secretary) and undergraduate independent students shall be eligible to borrower funds under this subsection in amounts specified in paragraphs (3) through (6) and, unless otherwise specified in paragraphs (7) and (8) under this subsection, shall have the same terms, conditions, and benefits as all other loans made under this part. In addition, undergraduate dependent students shall be eligible to borrow funds under this subsection if the financial aid administrator determines, after review of the financial information submitted by the student and considering the debt burden of the student, that exceptional circumstances will likely preclude the student's parents from borrowing under subsection (d) for purposes of the expected family contribution and that the student's family is otherwise unable to provide such expected family contribution. If the financial aid administrator makes such a determination, appropriate documentation of such determination shall be maintained in the institution's records to support such determination. No student shall be eligible to borrow funds under this subsection until such student has obtained a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate.

"(2) INSTITUTIONAL ELIGIBILITY.—Funds may not be borrowed under this subsection by any undergraduate student who is enrolled at any institution during any fiscal year if the cohort default rate for such institution, for the most recent fiscal year for which such rates are available, equals or exceeds 30 percent. The Secretary shall notify institutions to which such restriction applies annually, and specify the fiscal year covered by the restriction. The Secretary shall afford

any institution to which such restriction applies an opportunity to present evidence contesting the accuracy of the calculation of the cohort default rate for such institution.

"(3) ANNUAL LIMIT.—Subject to paragraphs (4) and (5), the maximum amount a student may borrow in any academic year is:

"(A) In the case of student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

"(B) In the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study, $4,000.

"(C) In the case of a student at an eligible institution who has successfully completed the first and second year of such a program but has not successfully completed the remainder of such a program, $5,000.

"(D) In the case of a graduate or profession student (as defined in regulations of the Secretary) at an eligible institution, $10,000.

"(4) AGGREGATE LIMIT.—The aggregate insured principal amount of insured loans made to any student under this subsection, minus any interest capitalized under paragraphs (7) and (8) shall not exceed—

"(A) $23,000, in the case of any student who has not successfully completed a program of undergraduate education; and

"(B) $73,000, in the case of any graduate or professional student, as such terms are defined by regulations issued by the Secretary, including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student.

"(5) LIMITATION BASED ON NEED.—Any loan under this subsection may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any student under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) the total of (i) any loan for which the student is eligible under section 428, and (ii) other financial aid is certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of the student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(6) DISBURSEMENT.—A loan under this subsection shall be disbursed in the manner required by section 428G.

"(7) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this subsection shall commence not later than 60 days after the date such loan is disbursed by the lender or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment, subject to deferral pursuant to sections 427(a)(2)(C) and 428(b)(1)(M). In the case of a borrower under this subsection who is also a borrower under a program of student loan insurance covered by an agreement under section 428(b), the lender shall notify the borrower of the option to defer the commencement of the repayment for 6 months after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, except that interest shall begin to accrue, and shall be paid in accordance with paragraph (8), notwithstanding such delay in the commencement of repayment. The lender shall also notify the borrower of the borrower's option to commence repayment earlier than the beginning of such repayment period and the difference in total cost to the borrower.

"(8) CAPITALIZATION OF INTEREST.—(A) Interest on loans made under this subsection—

"(i) which are disbursed in installments,

"(ii) for which payments of principal are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), or

"(iii) for which the commencement of the repayment period is delayed in accordance with paragraph (1) to coincide with the commencement of the repayment period of a loan made under section 427 or 428,

shall, if agreed upon by the borrower and the lender—

"(I) be paid monthly or quarterly, or

"(II) be added to the principal amount of the loan not more frequently than quarterly by the lender.

"(B) Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(9) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this subsection.

"(10) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this subsection shall be at the applicable rate of interest provided in section 427(e).

"(11) AMORTIZATION.—The amount of the periodic payment and the repayment scheduled for any loan made pursuant to this subsection shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(A) the amount of the periodic payment will be adjusted annually, or

"(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A.

"(12) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment of principal is due from the borrower.

"(d) FEDERAL PARENT LOANS.—

"(1) AUTHORITY TO BORROW.—Parents of a dependent student, who do not have an adverse credit history as determined pursuant to regulations of the Secretary, shall be eligible to borrow funds under this subsection in amounts specified in paragraph (2), an unless otherwise specified in paragraphs (3), (4), and (5), such loans shall have the same terms, conditions and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this subsection, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this subsection.

"(2) LIMITATION BASED ON NEED.—Any loan under this subsection may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this subsection for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of any student shall not be deemed to be exceeded by the line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(3) PARENT LOAN DISBURSEMENT.—All loans made under this subsection shall be disbursed in accordance with section 428G.

"(4) PAYMENT OF PRINCIPAL AND INTEREST.—

"(A) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this subsection shall commence not later than 60 days after the date such loan is disbursed by the lender, or if the loan is disbursed in multiple installments not later than 60 days after the disbursement of the last such installment, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).

"(B) CAPITALIZATION OF INTEREST.—Interest on loans made under this subsection for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the borrower.

"(C) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this subsection.

"(D) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this subsection shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(i) the amount of the periodic payment will be adjusted annually, or

"(ii) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A.".

(b) TERMINATION OF AUTHORITY.—

(1) TERMINATION OF THE FISL PROGRAM.—(A) Section 424 of the Act is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF AUTHORITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not exercise the authority contained in the provisions of this section after September 30, 2000.

"(2) EXCEPTION.—Whenever the Secretary determines that the objectives of this part require it, the Secretary may extend the termination date contained in paragraph (1) for 5 years.".

(B) Section 426A of the Act (as redesignated by subsection (a)(1) of this section) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary may not exercise the authority contained in the provisions of this section after September 30, 1998.".

(2) TERMINATION OF AUTHORITY TO GUARANTEE LOANS UNDER SECTION 428A.—Section 428A of the Act is amended by adding at the end thereof the following new subsection:

"(e) TERMINATION OF AUTHORITY.—The Secretary may not issue loan guarantees for loans made or insured under this section after September 30, 1998.".

(3) TERMINATION OF AUTHORITY TO GUARANTEE LOANS UNDER SECTION 428B.—Section 428B of the Act is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION OF AUTHORITY.—The Secretary may not issue loan guarantees for loans made or insured under this section after September 30, 1998.".

(4) TERMINATION OF AUTHORITY TO GUARANTEE LOANS UNDER SECTION 428H.—Section 428H of the Act is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION OF AUTHORITY.—The Secretary may not issue loan guarantees for loans made or insured under this section after September 30, 1998.".

(c) SINGLE APPLICATION TO CONFORM TO NEW SECTION 427.—Section 432(m)(1)(B) of the Act is amended by adding at the end thereof the new flush sentence: "The form prescribed by the Secretary shall conform to the provisions of section 427 of this part as amended by the Student Loan Reconciliation Amendments of 1993.".

(d) LINE OF CREDIT PROVISION TO AVOID REAPPLICATION.—Section 438B(1) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding after paragraph (1) the following new subparagraph:

"(B) In order to carry out the objective of subparagraph (A), the Secretary shall, within 240 days after the date of enactment of the Student Assistance Reform and Savings Amendments of 1993, develop and promulgate regulations to authorize eligible lenders to establish a line of credit for student borrowers after the applicable eligible institution has determined the continued eligibility of the student borrower under this part. The determination described in the previous sentence shall be considered a reapplication on the part of the student borrower for any purpose under this part.".

(e) CONFORMING AMENDMENTS.—(1) Section 433(e) of the Act is amended by striking out "section" and inserting "sections 427(b)(3), 427(c), 427(d),".

(2) Section 435(d)(1)(G) of the Act is amended by striking out "428A(d), and 428B(d),".

(3) Section 435(m)(2)(D) of the Act is amended by inserting "section 427(c) or" before "section 428A" each time it appears in subparagraph (D).

(4)(A) Section 437(b) of the Act is amended by inserting "section 427," before "subparagraph".

(5) Section 437(d) of the Act is amended by inserting "427(d) or" before "428B".

(6) Section 437A of the Act is amended by inserting "427(d) or" before "428B".

(7)(A) Section 438(b)(2)(C)(ii) of the Act is amended by inserting "section 427(c) or 427(d), or" before "section 428A".

(B) Section 438(b)(5)(A)(ii) of the Act is amended by inserting "427," before "428A".

(8)(A) Section 438(c)(2) of the Act is amended by inserting "427(c), 427(d)," before "428A".

(B) Section 438(c)(6) of the Act is amended by inserting "427(c), 427(d)," before "428A".

(C) Section 438(c)(7) of the Act is amended by inserting "427(c), 427(d)," before "428A".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to loans for which the first disbursement is made after September 30, 1993.

SEC. 4003. FEDERAL INTEREST SUBSIDIES.

Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a), hereinafter in this subtitle referred to as "the Act", is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(i) IN-SCHOOL AND GRACE PERIOD INTEREST RATES.—

"(1) APPLICABLE RATE.—Notwithstanding any other provision of this section, with respect to any loan for which the first disbursement is made on or after October 1, 1993, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan, or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C),

shall not exceed the rate determined under paragraph (2).

"(2) METHOD OF CALCULATION.—For purposes of paragraph (1) the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

"(B) 2.6 percent.".

SEC. 4004. GUARANTY AGENCY AND LENDER RISK SHARING.

(a) AMENDMENTS.—

(1) LENDER INSURANCE PERCENTAGE.—Section 428(b)(1)(G) of the Act (20 U.S.C. 1087(b)(1)(G)) is amended—

(A) by striking "not less than 100 percent" and inserting "95 percent"; and

(B) by inserting before the semicolon at the end the following: "except that in the case of loans to students attending institutions whose cohort default rate exceeds 20 percent, such program insures 100 percent of the unpaid principal amount".

(2) GUARANTY AGENCY REINSURANCE PERCENTAGE.—Section 428(c)(1) of the Act is amended—

(A) in subparagraph (A), by striking "100 percent" and inserting "95 percent";

(B) in subparagraph (B)(i), by striking "90 percent" and inserting "85 percent";

(C) in subparagraph (B)(ii), by striking "80 percent" and inserting "75 percent"; and

(D) by adding at the end the following new subparagraph:

"(E) For the purposes of calculating the amount of reimbursement and the amount of loans insured under clauses (i) and (ii) of subparagraph (A), the Secretary shall exclude reimbursements and amounts of loans attributable to loans made to students for attendance at institutions of higher education with cohort default rates that exceed 20 percent.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall apply with respect to any loan for which the first disbursement is made on or after October 1, 1993.

SEC. 4005. MASTER CHECKS.

Section 428(b)(1)(N) of the Act (20 U.S.C. 1078) is amended by inserting "(including a consolidated check combining the funds of more than one student)" after "to the institution by check".

SEC. 4006. LOAN TRANSFER FEES.

Section 428(b)(2) of the Act (20 U.S.C. 1078(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) provide that, if a lender or holder, on or after October 1, 1993, sells, transfers, or assigns a loan under this part, then the transferee shall pay to the Secretary a transfer fee in an amount equal to 0.25 percent the principle and accrued unpaid interest of the loan.".

SEC. 4007. SECRETARY'S EQUITABLE SHARE.

(a) AMENDMENT.—Section 428(c)(6)(A)(ii) of the Act (20 U.S.C. 1078(c)(6)(A)(ii)) is amended by striking out "30 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply with respect to determinations of the Secretary's equitable share of payments made by borrowers on or after October 1, 1993.

SEC. 4008. ADMINISTRATIVE COST ALLOWANCE.

Section 428(f) of the Act is repealed.

SEC. 4009. SUPPLEMENTAL PRECLAIMS ASSISTANCE.

Section 428(l)(2) of the Act (20 U.S.C. 1078(l)(2)) is amended by striking the second sentence and inserting the following: "For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principle and the accrued unpaid interest of the loan.".

SEC. 4010. PLUS LOAN AMOUNTS AND DISBURSEMENTS.

(a) LOAN AMOUNTS.—Section 428B(b) of the Act (20 U.S.C. 1078-2(b)) is amended to read as follows:

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

"(1) ANNUAL LIMIT.—Subject to paragraph (2), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation of the Secretary) is $10,000.

"(2) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.".

(b) MULTIPLE DISBURSEMENT REQUIRED.—

(1) AMENDMENT.—Section 428B(c) of the Act is amended by inserting after "under this section" the following: "shall be disbursed in accordance with the requirements of section 428G and".

(2) CONFORMING AMENDMENTS—Section 428G(e) of the Act (20 U.S.C. 1078-7(e) is amended—

(A) by striking "PLUS, CONSOLIDATION," and inserting "CONSOLIDATION"; and

(B) by striking "section 428B or 428C" and inserting "section 428C".

(3) FISL AMENDMENT.—Section 427(b)(2) of the Act (20 U.S.C. 1077(b)(2)) is amended by striking "section 428B or 428C" and inserting "section 428B".

SEC. 4011. CONSOLIDATION LOAN INTEREST RATES AND FEES.

(a) AMENDMENTS.—Section 428C(c) of the Act (20 U.S.C. 1078-3(c)) is amended—

(1) by striking subparagraph (B) of paragraph (1) and inserting the following:

"(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at annual rate that, during any 12-month period beginning on July 1 and ending on June 30, shall be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.1 percent."; and

(2) by adding at the end the following new paragraph:

"(6) INSURANCE FEE FROM LENDERS.—Each lender shall pay to the Secretary, by monthly installments, an annual amount equal to 0.5 percent of the average principal amount outstanding on loans under this section held by the lender, as determined in accordance with such regulations as the Secretary shall prescribe.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans made pursuant to section 428C on or after October 1, 1993.

SEC. 4012. SPECIAL ALLOWANCE PAYMENTS WITH RESPECT TO TAX-EXEMPT LOAN FUNDS.

(a) AMENDMENT.—Section 438(b)(2)(B) of the Act (20 U.S.C. 1087-1(b)(2)(B)) is amended—

(1) by striking out division (ii); and

(2) by redesignating division (iii) as division (ii).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply with respect to the determination of the quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations on or after May 1, 1993.

SEC. 4013. LENDER ORIGINATION FEES.

Section 438 of the Act (20 U.S.C. 1087-1) is amended—

(1) in the heading of subsection (c) by inserting "FROM STUDENTS" after "ORIGINATION FEES";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

"(d) ORIGINATION FEES FROM LENDERS.—

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by an origination fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount of such origination fee, the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted.

"(2) AMOUNT OF ORIGINATION FEES.—Subject to paragraph (3) of this subsection,] with respect to any loan (other than loans made under sections 428A, 428B, 428C, and 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after October 1, 1993, the amount of the origination fee which shall be deducted under paragraph (1) shall be equal to 1 percent of the principal amount of the loan.

"(3) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1993, each eligible lender under this part shall pay to the Secretary an origination fee of 1 percent of the principal amount of the loan.

"(4) DISTRIBUTION OF ORIGINATION FEES.—All origination fees collected pursuant to this section on loans authorized under section 428A or 428B shall be paid to the Secretary by the lender and deposited in the fund authorized under section 431 of this part.".

SEC. 4014. LENDER-OF-LAST-RESORT REQUIREMENT.

Section 439(q)(1)(A) of the Act (20 U.S.C. 1087-2) is amended by "may begin" and inserting "shall begin".

SEC. 4015. INCOME CONTINGENT REPAYMENT OPTION.

(a) RULEMAKING REQUIRED.—Not later than 120 days after the date of enactment of this Act, the Secretary shall, pursuant to section 428(b)(1)(E) of the Act, promulgate one or more income contingent repayment schedules for use in connection with loans made under part B of title IV of the Act (including loans made pursuant to sections 428A, 428B, 428C, 428H, and 439(o)). Such schedule or schedule shall—

(1) result in no increase in Federal costs associated with the payment of interest or special allowance benefits to holders of loans under this part;

(2) not include negative amortization;

(3) allow for the use of data received from the Internal Revenue Service; and

(4) include provisions to apply in cases where the borrowers income data is either not provided by the borrower or is otherwise unavailable.

(b) LENDERS TO OFFER OPTIONS.—Not later than 270 days after the publication of an income contingent repayment schedule or schedule pursuant to subsection (a), all eligible lenders shall offer eligible borrowers the option to repay loans under the income contingent repayment schedules prescribed under subsection (a).

(c) AVAILABILITY.—The income contingent repayment option available under the regulations required by this section shall apply to loans made to borrowers after the publication of a schedule or schedule under subsection (b) and may, at the option of the lender, be offered on any outstanding loan.

(d) FORMS AND PROCEDURES.—The Secretary shall promulgate and publish all necessary forms and procedures necessary under this section.

(e) WAIVER OF REPAYMENT PERIOD LIMITS.—Subject to the requirement of subsection (a)(1), the Secretary may waive the 10-year limit on the repayment period for loans made under part B of title IV of the Act.

Subtitle B—Cost Sharing by States

SEC. 4101. COST SHARING BY STATES.

(a) AMENDMENT.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following new subsection:

"(n) STATE SHARE OF DEFAULT COSTS.—(1) In the case of any State in which there are located any institutions of higher education with cohort default rates that exceed 20 percent, such State shall pay to the Secretary an amount equal to—

"(A) the new loan volume attributable to all institutions in the State for the current fiscal year, multiplied by

"(B) the percentage specified in paragraph (2), multiplied by

"(C) the quotient of—

"(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State; divided by

"(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.

"(2) For purposes of paragraph (1)(B), the percentage used shall be—

"(A) 12.5 percent for fiscal year 1995;

"(B) 20 percent for fiscal year 1996; and

"(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

"(3) For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

"(A) the amount of the loans received for attendance by its current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

"(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

"(4) A State may charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on October 1, 1994.

Subtitle C—ERISA Amendments Relating to Group Health Plans

SEC. 4201. COORDINATION OF ERISA PREEMPTION RULES WITH TITLE XIX PROVISIONS PROVIDING FOR LIABILITY OF THIRD PARTIES.

(a) IN GENERAL.—Paragraph (8) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

"(8)(A) Subsection (a) of this section shall not apply to any State law to the extent necessary to permit the State to comply with the following requirements for the receipt of Federal financial assistance under title XIX of the Social Security Act:

"(i) subparagraphs (A), (B), and (H) of section 1902(a)(25) of such Act (relating to third-party liability) and section 1903(o) of such Act (relating to medicaid as secondary payor), as in effect on October 1, 1993; and

"(ii) sections 1902(a)(45) and 1912 of such Act (relating to assignment of rights of payment), as in effect on May 12, 1993.

"(B) Paragraph (2)(B) shall not apply to any State law to the extent necessary to permit the compliance of the State with any of the requirements described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

SEC. 4202. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) is amended by adding at the end the following new section:

"SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

"A group health plan may not reduce its coverage of the costs of pediatric vaccines

(as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by adding after the iem relating to section 608 the following new item:

"Sec. 609. Continued coverage of costs of a pediatric vaccine under group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

SEC. 4203. TEMPORARY RULES GOVERNING PREEMPTION OF CERTAIN STATE LAWS.

Paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§393-1 through 393-51).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after January 14, 1983), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(B)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to subtitle 2 of title 19 of the Annotated Code of Maryland (relating to the Health Services Cost Review Commission).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans, or

"(II) any amendment of the provision referred to in clause (i) enacted on or after May 12, 1993, to the extent it provides for more than the effective administration of such Act as in effect on such date.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provision referred to in clause (i) (as in effect on or after May 12, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Maryland to assist them in effectuating the policies of such provision which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(C)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to the following provisions of the law of the State of Minnesota:

"(I) section 295.52, Minnesota Statutes, as amended in May 1993 by House File 1178 (relating to receipts tax on providers);

"(II) section 19 of article 9 of the Minnesota Health Right Act, as amended in May 1993 by House File 1178 (relating to passthrough of 2 percent gross receipts tax on providers); and

"(III) subdivision 2 of section 3 of article 1 of such Act, article 7 of such Act, and section 1 of article 3 of Minnesota House File 1178 and section 4 and all that follows through the end of such article 3, as enacted in May 1993 (relating to data collection).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans (other than a provision described in clause (i)), and

"(II) any amendment of any provision referred to in clause (i) enacted on or after May 12, 1993, to the extent it provides for more than the effective administration of such provision as in effect on such date.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in clause (i) (as in effect on or after May 12, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Minnesota to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(D)(i) Except as provided in clauses (ii), (iv), (v), and (vii), subsection (a) shall not apply to the following provisions of the law of the State of New York:

"(I) subdivisions 1(b) and 4(e) of section 2807-c of the Public Health Law (relating to 13 percent surcharge);

"(II) subdivision 1(c) of section 2807-c of the Public Health Law (relating to uniform hospital charges);

"(III) subdivision 2-a of section 2807-c of the Public Health Law (relating to the variable surcharge for HMOs);

"(IV) subdivision 14 of section 2807-c of the Public Health Law (relating to basic percentage allowances for bad debt and charity care);

"(V) subdivision 14-b of section 2807-c of the Public Health Law (relating to health care services allowances);

"(VI) subdivision 14-c of section 2807-c of the Public Health Law (relating to further allowances for financially distressed hospitals); and

"(VII) section 18 of chapter 266 of the laws of 1986, as amended (relating to excess malpractice insurance adjustments).

"(ii) Except as provided in clause (iii), nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans, or

"(II) any provision referred to in clause (i) to the extent that any law of the State of New York appropriates amounts based on amounts collected by the State under such provision for any purpose other than carrying out the programs established under the provisions described in clause (i).

"(iii) Notwithstanding clause (ii), subsection (a) shall not apply to any provision of the law of the State of New York to the extent that such provision constitutes—

"(I) an HMO surcharge of the type provided for under subdivision 2-a of such section 2807-c (as in effect on February 2, 1993), or

"(II) an allowance, of the type provided for under the provisions referred to in clause (i) (as so in effect), for bad debts, charity care, health care services, or excess malpractice insurance,

but only if the law of such State appropriates amounts based on and equivalent to amounts collected by the State under such provision solely for the purpose of carrying out one or more programs established under the provisions described in clause (i).

"(iv) Subsection (a) shall apply to any provision of the law of the State of New York to the extent that such provision constitutes a surcharge of the type provided for under subdivisions 1(b) and 4(e) of section 2807-c of the Public Health Law of the State of New York (as in effect on February 2, 1993) unless such provision provides for use of amounts collected under such provision solely for the purpose of carrying out one or more programs established under the provisions described in clause (i).

"(v) Nothing in clause (i) shall be construed to exempt from subsection (a) any amendment of any provision referred to in clause (i) enacted on or after February 2, 1993, to the extent it provides for more than the effective administration of such provisions as in effect on such date, unless such amendment constitutes only a change in the methodology of determining payments to hospitals and would result in—

"(I) a surcharge described in clause (iii)(I) of not more than 9 percent with respect to which the requirements of clause (iii) are met,

"(II) an allowance described in clause (iii)(II) which does not exceed in the aggregate a Statewide average of not more than 10 percent and with respect to which the requirements of clause (iii) are met, or

"(III) a surcharge described in clause (iv) of not more than 13 percent with respect to which the requirements of clause (iv) are met.

"(vi) Subsection (a) shall not apply to any amendment to chapter 2 of the laws of 1988 of the State of New York, as amended, to the extent that such amendment extends the period for which the provisions referred to in clause (i) are in effect.

"(vii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in clause (i) (as in effect on or after February 2, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of New York to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(viii) The provisions of this subparagraph shall be effective as of February 2, 1993.

"(E) This paragraph shall cease to be effective as of May 12, 1995.".

TITLE V—COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Medicare Program

SEC. 5000. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", and "OBRA-1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), respectively.

(c) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

TITLE V—COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Medicare Program

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 performance standard rate of increase and increase in maximum reduction permitted in default update.
Sec. 5002. Classification of primary care services as a separate category of services.
Sec. 5003. Phased-in reduction in practice expense relative value units for certain services.
Sec. 5004. Limitation on payment for the anesthesia care team.
Sec. 5005. Basing payments for anesthesia services on actual time.
Sec. 5006. Separate payment for interpretation of electrocardiograms.
Sec. 5007. Payments for new physicians and practitioners.
Sec. 5008. Extra-billing limits.
Sec. 5009. Relative values for pediatric services.
Sec. 5010. Antigens under physician fee schedule.
Sec. 5011. Administration of claims relating to physicians' services.
Sec. 5012. 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 cap on payments for intraocular lenses.
Sec. 5023. 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. Treatment of inpatients and provision of diagnostic and therapeutic X-ray services by rural health clinics and Federally qualified health centers.
Sec. 5062. Application of mammography certification requirements.
Sec. 5063. Oral cancer drugs.
Sec. 5064. 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. Medicare hospital agreements with organ procurement organizations.
Sec. 5075. Extension of waiver for Watts Health Foundation.
Sec. 5076. Improved outreach for qualified medicare beneficiaries.
Sec. 5077. Peer review organizations.
Sec. 5078. Hospice information to home health beneficiaries.
Sec. 5079. Health maintenance organizations.
Sec. 5080. Miscellaneous and technical corrections.

CHAPTER 1—PROVISIONS RELATING TO PART B

Subchapter A—Physicians' Services

SEC. 5001. REDUCTION IN PERFORMANCE STANDARD RATE OF INCREASE AND INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w-4(f)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii), and

(2) by striking clause (iii) and inserting the following:

"(iii) for 1993 is 2 percentage points,

"(iv) for 1994 is 3½ percentage points, and

"(v) for each succeeding year is 4 percentage points.".

(b) INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

(1) in subclause (II), by striking "or 1995", and

(2) in subclause (III), by striking "3" and inserting "5".

SEC. 5002. CLASSIFICATION OF PRIMARY CARE SERVICES AS A SEPARATE CATEGORY OF SERVICES.

(a) IN GENERAL.—Section 1848(j)(1) (42 U.S.C. 1395w-4(j)(1)) is amended by inserting ", primary care services (as defined in section 1842(i)(4))," after "Secretary)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—

(1) to volume performance standard rates of increase established under section 1848(f) of the Social Security Act for fiscal years beginning with fiscal year 1994, and

(2) to updates in the conversion factors for physicians' services established under section 1848(d) of such Act for physicians' services to be furnished in calendar years beginning with 1996.

SEC. 5003. PHASED-IN REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

"(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994,

"(II) 1995, by an additional 25 percent of such excess, and

"(III) 1996 and subsequent years, by an additional 25 percent of such excess.

"(ii) FLOOR ON REDUCTIONS.—The practice expense relative value units for a physicians' service shall not be reduced under this subparagraph to a number less than 110 percent of the number of work relative value units.

"(iii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iv) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1994) exceeds 110 percent of the number of work relative value units (determined for such year).

"(iv) EXCLUDED SERVICES.—For purposes of clause (iii), the services described in this clause are—

"(I) anesthesia services,

"(II) radiology services, and

"(III) services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.".

(b) DEVELOPMENT OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.—

(1) The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician's service.

(2) The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

SEC. 5004. LIMITATION ON PAYMENT FOR THE ANESTHESIA CARE TEAM.

(a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDICAL DIRECTION.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR MEDICAL DIRECTION.—

"(A) IN GENERAL.—With respect to physicians' services furnished on or after January 1, 1994, and consisting of medical direction of two, three, or four concurrent anesthesia cases, the fee schedule amount to be applied shall not exceed one-half of the amount described in subparagraph (B).

"(B) AMOUNT.—The amount described in this subparagraph, for a physician's medical direction of the performance of anesthesia services, is the following percentage of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the physician alone:

"(i) For services furnished during 1994, 120 percent.

"(ii) For services furnished during 1995, 115 percent.

"(iii) For services furnished during 1996, 110 percent.

"(iv) For services furnished during 1997, 105 percent.

"(v) For services furnished after 1997, 100 percent.".

(2) ELIMINATION OF REDUCTION FOR MEDICAL DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (13).

(b) PAYMENT TO A CERTIFIED REGISTERED NURSE ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—Subparagraph (B) of section 1833(l)(4) (42 U.S.C. 1395l(l)(4)) is amended—

(1) in clause (i), by inserting "and before January 1, 1994," after "1991,";

(2) in clause (ii)—

(A) by adding "and" at the end of subclause (II),

(B) by striking the comma at the end of subclause (III) and inserting a period, and

(C) by striking subclauses (IV) through (VII); and

(3) by adding at the end the following new clause:

"(iii) In the case of services of a certified registered nurse anesthetist who is medically directed by a physician and that are furnished on or after January 1, 1994, the fee schedule amount shall be one-half of the amount described in section 1848(a)(5)(B) with respect to the physician.".

SEC. 5005. BASING PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at the end the following: "For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for determining the amount of time that may be billed for such services under this section.".

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: "For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for determining the amount of time that may be billed for such services under this section.".

SEC. 5006. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w-4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.".

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

"(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(ii)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1994 that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and as adjusted under subsection (c)(2)(E)(ii)" after "for 1994";

(2) in subsection (c)(2)(A)(i), by adding at the end the following: "Such relative values are subject to adjustment under subparagraph (E)(i).".; and

(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(E),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 5007. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1994 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(ii)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4), as amended by section 5006(c), is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993" after "for 1994";

(2) in subsection (c)(2)(A)(i), by inserting "and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subparagraph (E)(i)"; and

(3) in subsection (i)(1)(B), by inserting "and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subsection (c)(2)(E)".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5008. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).".

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w-4(g)(2)(C)) is amended by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking ", and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(A) in subsection (a)(3)—

(i) by inserting "AND SUPPLIERS" after "PHYSICIANS",

(ii) by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician", and

(iii) by adding at the end the following: "In the case of physicians' services (including

services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.";

(B) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting "(including services which the Secretary excludes pursuant to subsection (j)(3))" after "a physician's service";

(C) in subsection (g)(2)(D), by inserting "(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)" after "subsection (a)";

(D) in subsection (g)(3)(B)—

(i) by inserting after the first sentence the following: " No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.", and

(ii) in the last sentence, by striking "previous sentence" and inserting "first sentence";

(E) in subsection (h)—

(i) by inserting "or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))" after "physician" the first place it appears,

(ii) by inserting ", supplier, or other person" after "physician" the second place it appears, and

(iii) by inserting ", suppliers, and other persons" after "physicians" the second place it appears; and

(F) in subsection (j)(3), by inserting ", except for purposes of subsections (a)(3), (g), and (h)" after "tests and".

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

"(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of section 1842(j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) in subparagraph (C), by striking "shall include",

(C) in subparagraph (C), by striking the period at the end and inserting ", and", and

(D) by adding at the end the following new subparagraph:

"(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).".

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting "the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and" after "report to the Congress".

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1), as amended by section 5064(e)(2)—

(A) by striking "and" before "(O)", and

(B) by inserting before the semicolon at the end the following: ", and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)"; and

(2) in subsection (h)(5)(D)—

(A) by striking "paragraphs (2) and (3)" and by inserting "paragraph (2)", and

(B) by adding at the end the following: "Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.".

(f) EFFECTIVE DATES.—

(1) ENFORCEMENT AND UNIFORM APPLICATION; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1994.

(3) EOMBs.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1994.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning with 1994.

SEC. 5009. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1994, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) REPORT.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 5010. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5011. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 5012. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA–1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA–1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA–1990).—(1) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA–1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(h) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)) is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

(i) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA–1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking "(A) Any contract" and inserting "Any contract"; and

(B) by striking subparagraph (B).

(j) EFFECTIVE DATE.—Except as provided in subsection (i), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter B—Outpatient Hospital Services and Ambulatory Surgical Services

SEC. 5021. EXTENSION OF 10 PERCENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1992, 1993, 1994, or 1995" and inserting "fiscal years 1992 through 1998".

SEC. 5022. EXTENSION OF CAP ON PAYMENTS FOR INTRAOCULAR LENSES.

(a) IN GENERAL.—Section 4151(c)(3) of OBRA–1990 is amended by striking "Decem-

ber 31, 1992" and inserting "December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of OBRA–1990.

SEC. 5023. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(ii) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved.".

(C) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

Subchapter C—Durable Medical Equipment

SEC. 5031. REVISIONS TO PAYMENT RULES FOR DURABLE MEDICAL EQUIPMENT.

(a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN OF LOCAL PAYMENT AMOUNTS.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and (3)(C)(i)(II) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "1992" the first place it appears and inserting "1992, 1993, and 1994"; and

(ii) by striking "1992" the second place it appears and inserting "the year".

(B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "and" at the end of subclause (I);

(ii) by redesignating subclause (II) as (IV); and

(iii) by inserting after subclause (I) the following new subclauses:

"(II) for 1992 and 1993, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year,

"(III) for 1994, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the median of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the median of all local payment amounts determined under such clause for such item or device for that year, and".

(2) MISCELLANEOUS DEVICES AND ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)(III), by striking "1992" and inserting "1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local purchase prices computed under such subparagraph for the item for the year; and".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1991 and 1992" and inserting "1991, 1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local monthly payment rate computed under subparagraph (A)(ii) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year; and".

(b) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) IN GENERAL.—Section 1834(h)(2) (42 U.S.C. 1395m(h)(2)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1992 or 1993" and inserting "1992, 1993, or 1994";

(B) in subparagraph (B)(ii), by striking "each subsequent year" and inserting "1993";

(C) in subparagraph (C)(iv), by striking "regional purchase price computed under subparagraph (B)" and inserting "national limited purchase price computed under subparagraph (E)";

(D) in subparagraph (D)(ii), by striking "a subsequent year" and inserting "1993"; and

(E) by adding at the end the following new subparagraph:

"(E) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1994, equal to the local purchase price computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the median of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the applicable percentage increase for such subsequent year.".

(2) EXCEPTION FOR CERTAIN ITEMS.—Section 1834(h) (42 U.S.C. 1395m(h)), as amended by paragraph (1), is further amended—

(A) in paragraph (1)(B), by striking "subparagraph (C)," and inserting "subparagraphs (C) and (F),"; and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(F) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5032. PAYMENT FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1994.

In determining the amount of payment under part B of title XVIII of the Social Security Act during 1994, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 5033. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

"(iii) which is an accessory used in conjunction with a nebulizer or aspirator,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5034. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

"(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after October 1, 1994, for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

"(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

"(i) for medical equipment and supplies furnished on or after October 1, 1994, and before January 1, 1996, the supplier meets standards prescribed by the Secretary; and

"(ii) for medical equipment and supplies furnished on or after January 1, 1996, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

"(I) comply with all applicable State and Federal licensure and regulatory requirements;

"(II) maintain a physical facility on an appropriate site;

"(III) have proof of appropriate liability insurance; and

"(IV) meet such other requirements as the Secretary may specify.

"(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN'S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished as an incident to a physician's service.

"(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

"(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

"(2) CERTIFICATES OF MEDICAL NECESSITY.—

"(A) STANDARDIZED CERTIFICATES.—Not later than October 1, 1994, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

"(B) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), a supplier of medical equipment and supplies may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity on or after October 1, 1994.

"(ii) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Clause (i) shall not apply with respect to a certificate of medical necessity for any item that is not contained on the list of potentially overused items developed by the Secretary under subsection (a)(15)(A) to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary. In the event a supplier provides a certificate of medical necessity containing information permitted under this clause, such certificate shall also contain the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(C) DEFINITION.—For purposes of this paragraph, the term 'certificate of medical necessity' means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(3) COVERAGE AND REVIEW CRITERIA.—

"(A) DEVELOPMENT AND ESTABLISHMENT.—Not later than January 1, 1996, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies, individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(B) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

"(i) the item is frequently purchased or rented by beneficiaries;

"(ii) the item is frequently subject to a determination that such item is not medically necessary; or

"(iii) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) DEFINITION.—The term 'medical equipment and supplies" means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraphs (1) and (3)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).".

(2) CONFORMING AMENDMENT.—Effective October 1, 1994, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than July 1, 1996, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under section 1834(i)(3)(A) of the Social Security Act (as added by subsection (a)) on the utilization of items of medical equipment and supplies by individuals enrolled under part B of the medicare program.

(c) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare

beneficiaries have access to items of durable medical equipment.

(d) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

SEC. 5035. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING —(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate regional carrier (as designated by the Secretary).

"(ii) For purposes of clause (i), the term 'appropriate regional carrier' means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after October 1, 1993.

(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 5036. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered item the supplier has already furnished to the individual) unless—

"(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

"(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 5037. KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting before the semicolon the following: "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after the first day of the first month that begins after the expiration of the 60-day period beginning on the date of the enactment of this Act.

SEC. 5038. BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) UNASSIGNED CLAIMS.—

(1) IN GENERAL.—Section 1834(i) (42 U.S.C. 1395m(i)), as added by section 5034(a)(1), is amended—

(A) by redesignating paragraph (4) as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

"(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

"(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as amended by section 5037(a), is amended by striking "1834(i)(4)" and inserting "1834(i)(5)".

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1834(i)(4))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i)(1); or

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15);

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items or services furnished on or after October 1, 1994.

SEC. 5039. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 5040. PAYMENT FOR SURGICAL DRESSINGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 5034(a)(1), is amended by adding at the end the following new subsection:

"(j) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994)

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 5064(e)(2) and 5008(e)(1), is amended—

(1) by striking "and" before "(P)", and

(2) by inserting before the semicolon at the end the following: ", and (Q) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j);".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5041. PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking "15 percent" the second place it appears and inserting "45 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1994.

SEC. 5042. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1994, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 5011(a), is amended by adding at the end the following new paragraph:

"(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in

the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

Subchapter D—Part B Premium

SEC. 5051. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by inserting "and for each month in 1996 and 1997" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1998".

Subchapter E—Other Provisions

SEC. 5061. TREATMENT OF INPATIENTS AND PROVISION OF DIAGNOSTIC AND THERAPEUTIC X-RAY SERVICES BY RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.

(a) TREATMENT OF INPATIENTS.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) in paragraph (1), in the matter following subparagraph (C), by striking "as an outpatient" and inserting "as a patient";

(2) in paragraph (2)(A), by striking "furnishing to outpatients" and inserting "furnishing to patients"; and

(3) in paragraph (3), in the matter following subparagraph (B), by striking "as an outpatient" and inserting "as a patient".

(b) TREATMENT OF DIAGNOSTIC AND THERAPEUTIC X-RAY SERVICES.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended—

(1) in paragraph (1)(A), by inserting "(i)" after "(A)" and by adding at the end the following: "and (ii) diagnostic and therapeutic x-ray services,", and

(2) in paragraph (2)(A), by striking "(A)" and inserting "(A)(i)".

(c) CONFORMING AMENDMENT.—Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "and services of a certified registered nurse anesthetist" and inserting "services of a certified registered nurse anesthetist, rural health clinic services, and Federally-qualified health center services".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994, and shall apply to services furnished on or after such date.

SEC. 5062. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) SCREENING MAMMOGRAPHY.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking "meets the quality standards established under paragraph (3)" and inserting "is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act";

(2) in paragraph (1)(C)(iii), by striking "paragraph (4)" and inserting "paragraph (3)";

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) DIAGNOSTIC MAMMOGRAPHY.—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting "and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act" after "necessary".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking ""or which does not meet the standards established under section 1834(c)(3)" and inserting "or which is not conducted by a facility described in section 1834(c)(1)(B)".

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking "or whether screening mammography meets the standards established under section 1834(c)(3),".

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking "1834(c)(3),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

SEC. 5063. ORAL CANCER DRUGS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 5064(f)(7)(B), is amended—

(1) by striking "and" at the end of subparagraph (N);

(2) by adding "and" at the end of subparagraph (O); and

(3) by adding at the end the following new subparagraph:

"(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5064. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a

month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 13951(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(6) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(7) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 13951(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 13951(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(8) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

CHAPTER 2—PROVISIONS RELATING TO PARTS A AND B

SEC. 5071. ELIMINATION OF ADD-ON FOR OVERHEAD OF HOSPITAL-BASED HOME HEALTH AGENCIES.

(a) GENERAL RULE.—The first sentence of section 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by striking ", with appropriate adjustment for administrative and general costs of hospital-based agencies".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning after fiscal year 1993.

SEC. 5072. STUDY AND REPORT ON MEDICARE GME PAYMENTS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the methodology used to determine payments to hospitals under the medicare program for the costs of medical residency training programs and shall include in the study an analysis of the causes of variation among such programs in the per resident costs of direct graduate medical education, including the extent of support for such programs from non-hospital sources.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report any recommendations considered appropriate by the Secretary for modifications to the methodology used to determine payments to hospitals under the medicare program for the costs of medical residency training programs that will encourage greater uniformity among medical residency training programs in the per resident costs of direct graduate medical education.

SEC. 5073. MEDICARE AS SECONDARY PAYER.

(d) UNIFORM RULES FOR SIZE OF EMPLOYER.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following:

"(E) GENERAL PROVISIONS.—

"(i) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Subparagraphs (A) through (C) do not apply to a group health plan unless the plan is a plan of, or contributed to by, an employer or employee organization that has 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

"(ii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Subparagraphs (A) through (C) also do not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of current employment status with an employer that does not have 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year and the preceding calendar year; but the exception provided in this clause applies only if the plan elects treatment under this clause.

"(iii) APPLICATION OF CONTROLLED GROUP RULES.—For purposes of clauses (i) and (ii)—

"(I) all employees of corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1986, determined without regard to subsection (a)(4) or (e)(3)(C)), shall be treated as employed by a single employer,

"(II) all employees of trades or businesses (whether or not incorporated) which are under common control (under regulations prescribed by the Secretary of the Treasury under section 414(c) of that Code) shall be treated as employed by a single employer,

"(III) all employees of the members of an affiliated service group (as defined in section 414(m) of that Code) shall be treated as employed by a single employer, and

"(IV) leased employees (as defined in section 414(n)(2) of that Code) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n) of that Code.

In applying sections of the Internal Revenue Code of 1986 under this clause, the Secretary shall rely upon the regulations and decisions of the Secretary of the Treasury respecting such sections.

"(iv) GROUP HEALTH PLAN DEFINED.—For purposes of this subsection, the term 'group health plan' has the meaning given such term in section 5000(b) of the Internal Revenue Code of 1986, without regard to section 5000(d) of such Code.

"(v) CURRENT EMPLOYMENT STATUS DEFINED.—For purposes of this subsection, an individual has 'current employment status' with an employer if the individual is an employee, is the employer, or is associated with the employer in a business relationship.

"(vi) TREATMENT OF SELF-EMPLOYED PERSONS AS EMPLOYERS.—For purposes of this subsection, the term 'employer' includes a self-employed person.".

(b) CONFORMING AMENDMENTS FOR WORKING AGED.—Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended—

(1) by amending subclauses (I) and (II) of clause (i) to read as follows:

"(I) may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(a), and

"(II) shall provide that any individual age 65 or over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer shall be entitled to the same benefits under the plan under the same conditions as any such individual (or spouse) under age 65.";

(2) by striking clauses (ii), (iii), and (v), and

(3) by redesignating clause (iv) as clause (ii).

(c) AMENDMENTS FOR DISABLED INDIVIDUALS.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended—

(1) by amending the heading and clause (i) of paragraph (1)(B) to read as follows:

"(B) DISABLED INDIVIDUALS UNDER GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A group health plan may not take into account that an individual (or a member of the individual's family) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(b).";

(2) by striking clause (iv) of paragraph (1)(B); and

(3) in the second sentence of paragraph (2)(A), by striking "or large group health plan".

(d) AMENDMENTS FOR INDIVIDUALS WITH ESRD.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the matter preceding clause (i), by striking "(as defined in paragraph (A)(v))",

(2) by striking "solely" each place it appears,

(3) by striking "by reason of" and inserting "under" each place it appears, and

(4) by inserting "or eligible for" after "entitled to" each place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1994.

SEC. 5074. MEDICARE HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Section 1138(a)(1) (42 U.S.C. 1320b-8(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(C) in the case of a hospital or rural primary care hospital that has in effect an agreement (described in section 371(b)(3)(A) of the Public Health Service Act) with an organ procurement organization, the agreement is with such organization for the service area in which the hospital is located (as established under such section).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to hospitals participating in the programs under titles XVIII and XIX of the Social Security Act as of January 1, 1994.

SEC. 5075. EXTENSION OF WAIVER FOR WATTS HEALTH FOUNDATION.

Section 9312(c)(3)(D) of OBRA-1986, as added by section 4018(d) of OBRA-1987 and as amended by section 6212(a)(1) of OBRA-1989, is amended by striking "1994" and inserting "1996".

SEC. 5076. IMPROVED OUTREACH FOR QUALIFIED MEDICARE BENEFICIARIES.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 5077. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c-13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 13951) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking "to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "related basis," and inserting "related basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion))";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follow through "and (5)" and inserting "and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2)(A) Subparagraph (B) of section 1154(a)(9) (42 U.S.C. 1320c-3(a)(9)) is amended to read as follows:

"(B) If the organization finds, after reasonable notice and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.".

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

"(D) to provide notice in accordance with section 1154(a)(9)(B);".

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

SEC. 5078. HOSPICE INFORMATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

"(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 5079. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYER PROVISIONS.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: "In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the

area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than January 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1996 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal made pursuant to paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 5080. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by section 5070(f)(7)(B)(iii)(II) of this subtitle, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(P)".

(5) Section 4201(d)(2) of OBRA–1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(6)(A) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(B) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(7) Section 4202 of OBRA–1990 is amended—

(A) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(B) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(C) in subsection (c)(1)(A), by striking "skilled"; and

(D) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

Subtitle B—Medicaid Program and Other Health Care Provisions

SEC. 5100. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Subtitle B—Medicaid Program and Other Health Care Provisions

Sec. 5100. References in subtitle; table of contents of subtitle.

CHAPTER 1—MEDICAID PROGRAM

SUBCHAPTER A—PROGRAM SAVINGS PROVISIONS

PART I—REPEAL OF MANDATE

Sec. 5101. Personal care services furnished outside the home as optional benefit.

PART II—OUTPATIENT PRESCRIPTION DRUGS

Sec. 5106. Permitting prescription drug formularies under State plans.

Sec. 5107. Elimination of special exemption from prior authorization for new drugs.

Sec. 5108. Technical corrections relating to section 4401 of OBRA–1990.

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

Sec. 5111. Transfer of assets.

Sec. 5112. Medicaid estate recoveries.

Sec. 5113. Closing loophole permitting wealthy individuals to qualify for medicaid.

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. Medical child support.

PART V—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS

Sec. 5121. Assuring proper payments to disproportionate share hospitals.

PART VI—ELIMINATION OF ENHANCED FEDERAL MATCHING PAYMENTS

Sec. 5126. Elimination of enhanced Federal matching payments.

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

PART I—ANTI-FRAUD AND ABUSE PROVISIONS

Sec. 5131. Intermediate sanctions for kickback violations.

Sec. 5132. 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.

Sec. 5140A. Conditioning Federal financial participation on enrollment of beneficiaries in staff or group model health maintenance organizations.

PART III—LIMITING FEDERAL MEDICAID MATCHING PAYMENT TO BONA FIDE EMERGENCY SERVICES FOR UNDOCUMENTED ALIENS
Sec. 5141. Limiting Federal medicaid matching payment to bona fide emergency services for undocumented aliens.
PART IV—MISCELLANEOUS PROVISIONS
Sec. 5144. Criteria for making determinations of denial of Federal medicaid matching payments to States.
Sec. 5145. Application of mammography certification requirements under the medicaid program.
Sec. 5146. Removal of sunset on extension of eligibility for working families.
Sec. 5147. 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—OTHER HEALTH CARE PROGRAMS
Sec. 5181. National Vaccine Injury Compensation Program amendments.
Sec. 5182. Availability of medicaid payments for childhood vaccine replacement programs.
Sec. 5183. Miscellaneous technical corrections to Public Health Service Act provisions.

CHAPTER 1—MEDICAID PROGRAM

Subchapter A—Program Savings Provisions

PART I—REPEAL OF MANDATE

SEC. 5101. PERSONAL CARE SERVICES FURNISHED OUTSIDE THE HOME AS OPTIONAL BENEFIT.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5174(c)(1), is further amended—

(1) in paragraph (7), by striking "including personal care services" and all that follows through "nursing facility";

(2) in paragraph (23), by striking "and" at the end;

(3) by redesignating paragraph (24) as paragraph (25); and

(4) by inserting after paragraph (23) the following new paragraph:

"(24) personal care services furnished to an individual who is not an inpatient or resident of a nursing facility that are (A) authorized by a physician for the individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; and".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 5174(c)(2)(A), is amended by striking "through (23)" and inserting "through (24)".

(2) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5174(c)(2)(B), is amended by striking "through (24)" and inserting "through (25)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 4721(a) of OBRA–90.

PART II—OUTPATIENT PRESCRIPTION DRUGS

SEC. 5106. PERMITTING PRESCRIPTION DRUG FORMULARIES UNDER STATE PLANS.

(a) ELIMINATION OF PROHIBITION AGAINST USE OF FORMULARIES.—Paragraph (54) of section 1902(a)(54) (42 U.S.C. 1396a(a)(54)) is amended to read as follows:

"(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;".

(b) STANDARDS FOR FORMULARIES.—Section 1927(d) (42 U.S.C. 1396r–8(d)), as amended by sections 5107(a) and 5108(b)(4)(A)(iii), is amended—

(1) by adding at the end of paragraph (1) the following new subparagraph:

"(C) In the case of a State that establishes a formulary in accordance with paragraph (5), the State may exclude coverage of a covered outpatient drug that is not included in the formulary."; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary only if the following requirements are met:

"(A) The formulary is established by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State (or, at the option of the State, the State's drug use review board established under subsection (g)(3)).

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under subsection (a).

"(C) The committee may exclude a covered outpatient drug with respect to the treatment of a specific disease or condition for an identified population (if any) only if the committee finds, based on the drug's labeling (or, in the case of a drug whose prescribed use is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (k)(6)), that the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary.

"(D) With respect to a decision to exclude a covered outpatient drug from the formulary or a prescribed use of such a drug, the committee issues a written explanation of its decision that is available to the public, unless the decision was made at a meeting of the committee which was open to the public.

"(E) The manufacturer of the drug, and any person affected by the decision, may obtain a reversal of the committee's decision to exclude a covered outpatient drug from the formulary under subparagraph (C) on the ground that the decision was arbitrary and capricious, in accordance with an appeals process that is established by the State and that provides an opportunity for judicial review of such decision.

"(F) The State plan permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (4).

"(G) The formulary meets such other requirements as the Secretary may impose.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 5107. ELIMINATION OF SPECIAL EXEMPTION FROM PRIOR AUTHORIZATION FOR NEW DRUGS.

(a) IN GENERAL.—Section 1927(d) (42 U.S.C. 1396r–8(d)), as amended by section 5108(b)(4)(A)(iii), is amended by striking paragraph (5).

(b) CONFORMING AMENDMENT.—Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)) is amended by striking "(except with respect" and all that follows through "of this paragraph)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 5108. TECHNICAL CORRECTIONS RELATING TO SECTION 4401 OF OBRA–1990.

(a) SECTION 1903, SSA.—Paragraph (10) of section 1903(i), as inserted by section 4401(a)(1)(B) of OBRA–1990, is amended to read as follows:

"(10) with respect to covered outpatient drugs unless there is a rebate agreement in effect under section 1927 with respect to such drugs or unless section 1927(a)(3) applies;".

(b) SECTION 1927, SSA.—(1) Section 1927(a) (42 U.S.C. 1396r–8(a)) is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: "Any such agreement entered into prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.", and

(ii) in the third sentence, by striking "March" and inserting "April";

(B) in paragraph (2)—

(i) by striking "first", and

(ii) by striking the period at the end and inserting the following: ", except that such paragraph (and section 1903(i)(10)(A)) shall not apply to the dispensing of such a drug before April 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.";

(C) in paragraph (3), by striking "single source" and all that follows and inserting the following: "covered outpatient drugs if—

"(A) based on information provided by a beneficiary's physician, the State has made a determination that the availability of the drug is essential to the health of the beneficiary under the State plan, and the Secretary has reviewed and approved such determination; and

"(B) the drug has been given a rating of 1-A by the Food and Drug Administration.";

(D) in paragraph (4)—

(i) by striking "in compliance with" and inserting "in effect under", and

(ii) by striking "coverage of the manufacturer's drugs" and inserting "ingredient costs of the manufacturer's covered outpatient drugs covered"; and

(E) by adding at the end the following new paragraph:

"(5) APPLICATION IN CERTAIN STATES AND TERRITORIES.—

"(A) APPLICATION IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of section 1902(a)(54) and of this section in the same manner as the State would be required to meet such requirements if the State had in effect a plan approved under this title.

"(B) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section, and sections 1902(a)(54) and 1903(i)(10), shall only apply to a State that is one of the 50 States or the District of Columbia.".

(2) Section 1927(b) (42 U.S.C. 1396r-8(b)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "(or periodically in accordance with a schedule specified by the Secretary)" and inserting "(or other period specified by the Secretary)", and

(ii) by inserting "after December 31, 1990, for which payment was made" after "dispensed";

(B) in paragraph (2)(A)—

(i) by striking "calendar quarter" and "the quarter" and inserting "rebate period" and "the period", respectively,

(ii) by striking "dosage units" and inserting "units of each dosage form and strength", and

(iii) by inserting "after December 31, 1990, for which payment was made" after "dispensed";

(C) in paragraph (3)(A)—

(i) in clause (i), by striking "quarter" each place it appears and inserting "calendar quarter or other rebate period under the agreement",

(ii) in clause (i), by striking the open parenthesis before "for" and the close parenthesis after "drugs",

(iii) in clause (i), by striking "subsection (c)(2)(B)) for covered outpatient drugs" and inserting "subsection (c)(1)(C) for each covered outpatient drug", and

(iv) in clause (ii), by inserting a comma after "this section" and after "1990";

(D) in paragraph (3)(B)—

(i) by striking "$100,000" and inserting "$10,000",

(ii) by striking "if the wholesaler" and inserting "for each instance in which the wholesaler",

(iii) by inserting "in response to such a request" after "false information", and

(iv) by striking "(with respect to amounts of penalties or additional assessments)";

(E) in paragraph (3)(C)—

(i) in clause (i), by striking "the penalty" and inserting "the rebate next required to be paid",

(ii) in clause (i), by striking "and such amount shall be paid to the Treasury, and, if" and inserting ". If",

(iii) in clause (ii), by inserting "under subparagraph (A)" after "provides false information", and

(iv) in clause (ii), by striking "Such civil money penalties are" and inserting "Any such civil money penalty shall be";

(F) in paragraph (3)(D), by striking "wholesaler," and inserting "wholesaler or the"; and

(G) in paragraph (4)(B)(iii), by adding at the end the following: "In the case of such a termination, a State may terminate coverage of the drugs affected by such termination as of the effective date of such termination without providing any advance notice otherwise required by regulation.".

(3) Section 1927(c) (42 U.S.C. 1396r-8(c)) is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A)—

(i) by striking the first sentence,

(ii) in the second sentence, by striking "Except as otherwise provided" and all that follows through "the Secretary)" and inserting the following: "For purposes of this section, the amount of the rebate under this subsection for a rebate period", and

(iii) by inserting "(except as provided in subsection (b)(3)(C) and paragraph (2))" after "drugs shall";

(B) in paragraph (1)(A), by striking "the quarter (or other period)" and inserting "the rebate period";

(C) in subparagraph (C)—

(i) by striking "For purposes of this paragraph" and inserting "BEST PRICE DEFINED.—For purposes of this section",

(ii) by inserting "provider," after "retailer,", and

(iii) by striking the semicolon at the end and inserting a period; and

(D) by striking subparagraph (D) and inserting the following:

"(D) USE OF ESTIMATED BEST PRICES DURING INITIAL YEAR OF AVAILABILITY OF DRUG.—If the Secretary determines that a manufacturer cannot determine the best price for rebate periods during the first year in which an agreement is in effect until after the end of the year, as part of the agreement the Secretary may require the manufacturer to estimate the best price for rebate periods during the year and provide an adjustment to the rebate paid to the State to take into account the difference (if any) between the best price and the estimated best price.".

(4)(A) Section 1927(d) (42 U.S.C. 1396r-8(d)) is amended—

(i) in paragraph (2)—

(I) in subparagraph (A), by inserting "or loss" after "gain",

(II) by striking subparagraph (I), and

(III) by redesignating subparagraphs (J) and (K) as subparagraphs (I) and (J);

(ii) in paragraph (3)—

(I) by striking "described in paragraph (2)", and

(II) by inserting "described in paragraph (2)" after "classes of drugs,";

(iii) by striking paragraph (4) and by redesignating paragraphs (5) through (7) as paragraphs (4) through (6);

(iv) in paragraph (6), as so redesignated, by striking "provided" and inserting "if"; and

(v) by striking the second sentence of paragraph (6), as so redesignated, and paragraph (8) and inserting the following:

"(7) CONSTRUCTION WITH RESPECT TO FRAUD AND ABUSE.—Nothing in this section shall be construed to restrict the authority of a State to apply sanctions under this Act against any person for fraud or abuse.".

(B) Section 1927(d)(4) of the Social Security Act, as redesignated by subparagraph (A)(iii), shall first apply to drugs dispensed on or after July 1, 1991.

(5)(A) Section 1927(f) (42 U.S.C. 1396r-8(f)) is amended to read as follows:

"(f) NO REDUCTIONS IN PHARMACY REIMBURSEMENT LIMITS.—

"(1) IN GENERAL.—During the period beginning on November 5, 1990, and ending on December 31, 1994—

"(A) a State may not reduce the amount paid by the State under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the amount in effect as of November 5, 1990, and

"(B) the Secretary may not change the regulations in effect on November 5, 1990, governing the amounts described in subparagraph (A) which are eligible for Federal financial participation, to reduce the reimbursement limits described in such regulations.

"(2) CONSTRUCTION.—If the Secretary notified a State before November 5, 1990, that its payment amounts under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug were in excess of those permitted under regulations in effect on such date, paragraph (1)(B) shall not be construed as preventing a State from reducing payment amounts or dispensing fee in order to comply with such regulations.".

(B) Not later than April 1, 1994, the Secretary of Health and Human Services shall establish an upper limit on the amount of payment which is eligible for Federal financial participation under title XIX of the Social Security Act for each multiple source drug (as defined in section 1927(k)(7)(A)(i) of such Act) for which the Food and Drug Administration has rated at least 3 formulations of such drug as therapeutically and pharmaceutically equivalent, regardless of whether all the formulations of such drug are rated as so equivalent. In establishing such a limit for a drug, the Secretary shall take into account only those formulations of the drug which the Food and Drug Administration has rated as therapeutically and pharmaceutically equivalent.

(6) Section 1927(g) (42 U.S.C. 1396r-8(g)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—Each State shall provide, by not later than January 1, 1993, for a drug use re-

view program for covered outpatient drugs (other than drugs dispensed to residents of nursing facilities) that—

"(i) meets the requirements of paragraph (2), and

"(ii) is intended to assure that prescriptions for such drugs are appropriate, medically necessary, and not likely to lead to adverse medical results.";

(B) in paragraph (2)—

(i) by amending the matter before subparagraph (A) to read as follows:

"(2) REQUIREMENTS.—",

(ii) by amending subparagraph (A) to read as follows:

"(A) PROSPECTIVE DRUG USE REVIEW.—Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title (including counseling by pharmacists) consistent with standards established by the Secretary. Nothing in this paragraph shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.",

(iii) in subparagraph (C)—

(I) by striking "APPLICATION OF STANDARDS.—" and inserting "STANDARDS.—(i)",

(II) by striking "and literature referred to in subsection (1)(B)" and inserting "described in clause (ii)",

(III) by striking "including but not limited to" and inserting ". Such assessment shall include",

(IV) by striking "abuse/misuse and, as necessary, introduce remedial strategies," and inserting "abuse or misuse and introduce remedial strategies", and

(V) by adding at the end the following new clause:

"(ii) The compendia described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, and the American Medical Association Drug Evaluations.", and

(iv) by amending subparagraph (D) to read as follows:

"(D) EDUCATIONAL PROGRAM.—The program shall educate (directly or by contract) pharmacists, physicians, and other individuals prescribing or dispensing covered outpatient drugs under the State plan on common drug therapy problems in order to improve prescribing or dispensing practices.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "(hereinafter" and all that follows and inserting "(in this paragraph referred to as the 'DUR Board').",

(ii) in subparagraph (B), by striking "51 percent" and all that follows and inserting "50 percent licensed and actively practicing physicians and at least 1/3 but not more than 50 percent licensed and actively practicing pharmacists.",

(iii) by amending subparagraph (C) to read as follows:

"(C) RESPONSIBILITIES.—The responsibilities of the DUR Board shall include the following:

"(i) Carrying out retrospective drug use review pursuant to paragraph (2)(B).

"(ii) Establishing and applying standards for drug use review described in paragraph (2)(C).

"(iii) Implementing educational programs described in paragraph (2)(D).

"(iv) Conducting ongoing evaluations of the effectiveness of its programs and activities in improving the quality and safety of drug therapy for individuals receiving benefits under the State plan."; and

(D) by amending subparagraph (D) to read as follows:

"(4) ANNUAL REPORT.—Each State shall submit a report each year to the Secretary on the nature and scope of the drug use review program under this subsection. Such report shall include an estimate of cost savings resulting from operation of such program.".

(7) Section 1927(h) (42 U.S.C. 1396r-8(h)) is amended to read as follows:

"(h) ENCOURAGING ELECTRONIC CLAIMS MANAGEMENT.—The Secretary shall encourage each single State agency under this title to establish, as its principal means of processing claims for covered outpatient drugs, a point-of-sale electronic claims management system for the purpose of verifying eligibility, transmitting data on claims, and assisting pharmacists and other authorized persons in applying for and receiving payment under the State plan.".

(8) Section 1927(i) (42 U.S.C. 1396r-8(i)) is amended to read as follows:

"(i) ANNUAL REPORT ON REBATE PROGRAM.—Not later than May 1 of each year, the Secretary shall submit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of the rebate agreements required for covered outpatient drugs under this section in the preceding fiscal year, and shall include in the report such information in addition to the information required to be reported under section 601(d) of the Veterans Health Care Act of 1992 as the Secretary considers appropriate.".

(9) Section 1927(j) (42 U.S.C. 1396r-8(j)) is amended to read as follows:

"(j) EXEMPTION FROM CERTAIN REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

"(1) CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND PHARMACIES.—The requirements of subsections (g) and (h) shall not apply with respect to covered outpatient drugs dispensed by—

"(A) an entity which receives payment under a prepaid capitation basis or under any other risk basis in accordance with section 1903(m)(2)(A) for services provided under the State plan; or

"(B) a pharmacy that is owned or operated by a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) that operates its own prospective drug use review program.

"(2) HOSPITALS WITH INDEPENDENT FORMULARY SYSTEMS.—

"(A) IN GENERAL.—The requirements of subsections (g) and (h) shall not apply with respect to covered outpatient drugs dispensed by a hospital providing medical assistance under the State plan that dispenses such drugs under a drug formulary system.

"(B) APPLICATION OF STATE FORMULARY.—Nothing in subparagraph (A) shall be construed to permit payment to be made under the State plan for a covered outpatient drug that is included in a drug formulary but that is not included in the State formulary under subsection (d)(5).

"(3) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in this subsection shall be construed to exclude any covered outpatient drugs subject to the provisions of this subsection from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.".

(10) Section 1927(k) (42 U.S.C. 1396r-8(k)) is amended—

(A) in paragraph (1), by striking "calendar quarter" and inserting "rebate period";

(B) in paragraph (2)—

(i) in the matter before clause (i) of subparagraph (A), strike "paragraph (5)" and insert "subparagraph (D)",

(ii) by striking "and" at the end of subparagraph (A),

(iii) by striking the period at the end of subparagraph (C) and inserting "; and", and

(iv) by adding at the end the following new subparagraph:

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).";

(C) in paragraph (3)—

(i) in subparagraph (E), by striking "**** emergency room visits",

(ii) in subparagraph (F), by striking "sevices" and inserting "services", and

(iii) in subparagraph (H), by inserting "services" after "dialysis";

(D) by striking paragraph (4);

(E) by amending paragraph (5) to read as follows:

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug,—

"(A) the entity (if any) that both manufactures and distributes the drug, or

"(B) if no such entity exists, the entity that distributes the drug.

Such term does not include a wholesale distributor of the drug that does not hold a National Drug Code number for the drug or a retail pharmacy licensed under State law.";

(F) in paragraph (6), by striking ", which appears" and all that follows and inserting "which is accepted by any of the compendia described in subsection (g)(2)(C)(ii).";

(G) in paragraph (7)—

(i) in subparagraph (A)(i), by striking "calendar quarter" and inserting "rebate period",

(ii) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)",

(iii) in subparagraph (A)(ii), by inserting "or product licensing application" after "application",

(iv) in subparagraph (C)(i), by striking "pharmaceuutically" and inserting "pharmaceutically", and

(v) in subparagraph (C)(iii), by striking ", provided that" and inserting "and"; and

(H) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified with respect to the agreement under subsection (b)(1)(A) for the payment of rebates.".

(d) FUNDING.—Section 4401(b)(2) of OBRA-1990 is amended by striking "75 percent," and all that follows and inserting "75 percent.".

(e) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA-1990 is amended—

(A) in subparagraph (A), by striking "10" and inserting "5"; and

(B) in subparagraph (C), by striking "regiment" and inserting "regimen".

(f) STUDIES.—Section 4401(d) of OBRA-1990 is amended—

(1) in paragraph (1)(A), by striking "other institutional facilities, and managed care plans" and inserting "nursing facilities, intermediate care facilities for the mentally retarded, and health maintenance organizations";

(2) in paragraph (1)(B), by striking "under this subsection" and inserting "under this paragraph";

(3) in paragraph (1)(B)(i), by striking "under this section" and inserting "under section 1927 of the Social Security Act";

(4) in paragraph (1)(B)(ii)—

(A) by striking "drug use review" and inserting "the type of drug use review that is", and

(B) by striking "under this section" and inserting "under such section";

(5) in paragraph (1)(B)(iii), by striking "under this title" and inserting "under title XIX of the Social Security Act";

(6) in paragraph (1)(C)—

(A) by striking "May 1, 1991" and inserting "May 1, 1992", and

(B) by striking "hereafter";

(7) in paragraph (2), by striking "the Committees on Aging of the Senate and House of Representatives an annual report and inserting "the Committee on Aging of the Senate a report";

(8) in paragraph (3)—

(A) in subparagraph (A), by striking ", acting in consultation with the Comptroller General,",

(B) by indenting subparagraph (B) an additional 2 ems, and

(C) in subparagraph (B)—

(i) by striking "December 31, 1991, the Secretary and the Comptroller General" and inserting "June 1, 1993, the Secretary", and

(ii) by striking "the Committees on Aging of the Senate and the House of Representatives" and inserting "the Committee on Aging of the Senate";

(9) in paragraph (4)(A), by striking "each" and by striking the semicolon and inserting a comma; and

(10) by striking paragraphs (5) and (6).

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

SEC. 5111. TRANSFER OF ASSETS.

(a) PERIOD OF INELIGIBILITY.—

(1) EXTENDING LOOK-BACK PERIOD TO 36 MONTHS.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended by striking "30-month period" and inserting "36-month period".

(2) ELIMINATING 30-MONTH LIMIT ON PERIOD OF INELIGIBILITY.—The second sentence of such section is amended by striking "equal to" and all that follows and inserting the following: "equal to—

"(A) the total uncompensated value of the resources so transferred; divided by

"(B) the average monthly cost, to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the community in which the individual is institutionalized.".

(3) CUMULATIVE PERIODS OF INELIGIBILITY IN THE CASE OF MULTIPLE TRANSFERS.—Such sentence is further amended by inserting "(or, in the case of a transfer which occurs during a period of ineligibility attributable to a previous transfer, the first month after the end of all periods of ineligibility attributable to any previous transfer)" after "shall begin with the month in which such resources were transferred".

(b) CRITERIA FOR UNDUE HARDSHIP EXCEPTION.—Section 1917(c)(2)(D) (42 U.S.C. 1396p(c)(2)(D)) is amended to read as follows:

"(D) the State agency determines, under procedures established by the State (in accordance with standards specified by the Secretary) that the denial of eligibility would work an undue hardship (in accordance with criteria established by the Secretary).".

(c) TREATMENT OF JOINTLY HELD ASSETS.—Section 1917(c) (42 U.S.C. 1936p(c)) is further amended by adding at the end the following new paragraph:

"(6) For purposes of this subsection, in the case of an asset held by an individual in common with another person or persons in a joint tenancy or a similar arrangement, the asset (or the affected portion thereof) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such asset.".

(d) MEDICAID QUALIFYING TRUSTS.—Section 1902(k) (42 U.S.C. 1396a(k)) is amended to read as follows:

"(k) TREATMENT OF TRUST AMOUNTS.—

"(1) IN GENERAL.—For purposes of determining an individual's eligibility for or amount of benefits under a State plan under this title, subject to paragraph (4), the following rules shall apply to a trust (which term includes, for purposes of this subsection, any similar legal instrument or device, such as an annuity) established by such individual:

"(A) REVOCABLE TRUSTS.—In the case of a revocable trust—

"(i) the corpus of the trust shall be considered resources available to the individual,

"(ii) payments from the trust to or for the benefit of the individual shall be considered income of the individual, and

"(iii) any other payments from the trust shall be considered a transfer of assets by the individual subject to section 1917(c).

"(B) IRREVOCABLE TRUSTS WHICH MAY BENEFIT GRANTOR.—In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual—

"(i) the corpus of the trust (or that portion of the corpus from which, or from the increase whereof, payment to the individual could be made) shall be considered resources available to the individual, and payments from that portion of the corpus (or increase)—

"(I) to or for the benefit of the individual, shall be considered income of the individual, and

"(II) for any other purpose, shall be considered a transfer of assets by the individual subject to the provisions of section 1917(c); and

"(ii) any portion of the trust from which (or from the income whereof) no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets by the individual subject to section 1917(c), and payments from such portion of the trust after such date shall be disregarded.

"(C) IRREVOCABLE TRUSTS WHICH CANNOT BENEFIT GRANTOR.—In the case of an irrevocable trust, if no payment may be made from the trust under any circumstances to or for the benefit of the individual—

"(i) the corpus of the trust shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets subject to section 1917(c), and

"(ii) payments from the trust after the date specified in clause (i) shall be disregarded.

"(2) DETERMINATION OF GRANTOR.—

"(A) TREATMENT OF ACTS BY INDIVIDUAL AND OTHERS.—For purposes of this subsection, an individual shall be considered to have established a trust if—

"(i) the individual (or the individual's spouse), or a person (including a court or administrative body) with legal authority to act in place of or on behalf of such individual (or spouse), or any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse), established (other than by will) such a trust, and

"(ii) assets of the individual (as defined in subparagraph (B)) were used to form all or part of the corpus of such trust.

"(B) ASSETS.—For purposes of this paragraph, assets of an individual include all income and resources of the individual and of the individual's spouse, including any income or resources which the individual (or spouse) is entitled to but does not receive because of action by the individual (or spouse), by a person (including a court or administrative body) with legal authority to act in place of or on behalf of such individual (or spouse), or by any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse).

"(C) TRUSTS CONTAINING ASSETS OF MORE THAN ONE INDIVIDUAL.—In the case of a trust whose corpus includes assets of an individual (as determined pursuant to subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(3) APPLICATION; RELATION TO OTHER PROVISIONS.—Subject to paragraph (4), this subsection shall apply without regard to—

"(A) the purposes for which the trust is established,

"(B) whether the trustees have or exercise any discretion under the trust,

"(C) any restrictions on when or whether distributions may be made from the trust, or

"(D) any restrictions on the use of distributions from the trust.

"(4) EXCEPTIONS AND HARDSHIP WAIVER.—

"(A) EXCEPTION FOR CERTAIN TRUSTS.—This subsection shall not apply to any of the following trusts:

"(i) A trust established for the benefit of a disabled individual (as determined under section 1614(a)(3)) by a parent, grandparent, or other representative payee of the individual.

"(ii) A trust established in a State for the benefit of an individual if—

"(I) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

"(II) the State will receive any amounts remaining in the trust upon the death of the individual, and

"(III) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to any group of individuals under section 1902(a)(10)(C).

"(B) SPECIAL TREATMENT OF ANNUITIES.—In this subsection, the term 'trust' includes an annuity only to such extent and in such manner as the Secretary specifies.

"(C) HARDSHIP WAIVER.—The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes (under criteria established by the Secretary) that such application would work an undue hardship on the individual.".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall apply, except as provided in this subsection, to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before October 1, 1993,

(B) with respect to resources disposed of before May 11, 1993,

(C) with respect to trusts established before May 11, 1993, or

(D) with respect to inter-spousal transfers.

SEC. 5112. MEDICAID ESTATE RECOVERIES.

(a) REQUIRING ESTABLISHMENT OF ESTATE RECOVERY PROGRAMS.—

(1) IN GENERAL.—Section 1902(a)(51) (42 U.S.C. 1396a(a)(51)) is amended by striking "and (B)" and inserting "(B) provide for an estate recovery program that meets the requirements of section 1917(b)(1), and (C)".

(2) REQUIREMENTS FOR ESTATE RECOVERY PROGRAMS.—Section 1917(b) (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)—

(i) by striking "(b)(1)" and inserting "(2)", and

(ii) by striking "(a)(1)(B)" and inserting "(a)(1)(B)(i)";

(B) in paragraph (2), by striking "(2) Any adjustment or recovery under" and inserting "(3) Any adjustment or recovery under an estate recovery program under"; and

(C) by inserting before paragraph (2), as designated by subparagraph (A), the following:

"(b)(1) For purposes of section 1902(a)(51)(B), the requirements for an estate recovery program of a State are as follows:

"(A) The program provides for identifying and tracking (and, at the option of the State, preserving) resources (whether excluded or not) of individuals who are furnished any of the following long-term care services for which medical assistance is provided under this title:

"(i) Nursing facility services.

"(ii) Home and community-based services (as defined in section 1915(d)(5)(C)(i)).

"(iii) Services described in section 1905(a)(14) (relating to services in an institution for mental diseases).

"(iv) Home and community care provided under section 1929.

"(v) Community supported living arrangements services provided under section 1930.

"(B) The program provides for promptly ascertaining—

"(i) when such an individual dies;

"(ii) in the case of such an individual who was married at the time of death, when the surviving spouse dies; and

"(iii) at the option of the State, cases in which adjustment or recovery may not be made at the time of death because of the application of paragraph (3)(A) or paragraph (3)(B).

"(C)(i) The program provides for the collection consistent with paragraph (3) of an amount (not to exceed the amount described in clause (ii)) from—

"(I) the estate of the individual;

"(II) in the case of an individual described in subparagraph (B)(ii), from the estate of the surviving spouse; or

"(III) at the option of the State, in a case described in subparagraph (B)(iii), from the appropriate person.

"(ii) The amount described in this clause is the amount of medical assistance correctly paid under this title for long-term care services described in subparagraph (A) furnished on behalf of the individual.".

(b) HARDSHIP WAIVER.—Section 1917(b) (42 U.S.C. 1396p(b)) is further amended by adding at the end the following new paragraph:

"(4) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection if such application would work an undue hardship (in accordance with criteria established by the Secretary).".

(c) DEFINITION OF ESTATE.—Section 1917(b) (42 U.S.C. 1396(b)) is further amended by adding at the end the following new paragraph:

"(5) For purposes of this section, the term 'estate', with respect to a deceased individual, includes all real and personal property and other assets in which the individual had any legally cognizable title or interest at the time of his death, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, survivorship, life estate, living trust, or other arrangement.".

(d) EFFECTIVE DATE.—

(1)(A) The amendments made by subsections (a) and (b) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations or standards to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply to individuals who died before October 1, 1993.

SEC. 5113. CLOSING LOOPHOLE PERMITTING WEALTHY INDIVIDUALS TO QUALIFY FOR MEDICAID.

(a) IN GENERAL.—Section 1902(r)(2) (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraph (A), except as provided in clause (ii), a State plan may not provide pursuant to this paragraph for disregarding any assets—

"(I) to the extent that payments are made under a long-term care insurance policy; or

"(II) because an individual has received (or is entitled to receive) benefits for a specified period of time under a long-term care insurance policy.

"(ii) Clause (i) shall not apply to State plan provisions that are approved as of May 14, 1993.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART IV—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD PARTY PAYMENTS

SEC. 5116. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) LIABILITY OF ERISA PLANS.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking "insurers)" and inserting "insurers and group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974) and including a service benefit plan and a health maintenance organization)".

(2) Section 1903(o) of such Act (42 U.S.C. 1396b(o)) is amended by striking "regulation)" and inserting "regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974)), a service benefit plan, and a health maintenance organization".

(b) REQUIRING STATE TO PROHIBIT INSURERS FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by adding "and" at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) that the State prohibits any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a State plan;".

(c) STATE RIGHT TO SUBROGATION.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is further amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

"(I) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State is subrogated to the right of any other party to payment for such assistance;".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

SEC. 5117. MEDICAL CHILD SUPPORT.

(a) STATE PLAN REQUIREMENT.—Section 1902(a)(45) (42 U.S.C. 1396a(a)(45)) is amended by striking "owed to recipients" and inserting "and have in effect laws relating to medical child support".

(b) MEDICAL CHILD SUPPORT LAWS.—Section 1912 of such Act (42 U.S.C. 1396k) is amended—

(1) by adding at the end of the heading the following: "; REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT"; and

(2) by adding at the end the following new subsection:

"(c) The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(45), are as follows:

"(1) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that the child was born out of wedlock, on the ground that the child may not be claimed as a dependent on the parent's Federal income tax return, or on the ground that the child does not reside with the parent or in the insurer's service area. In this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(2) A law that requires an insurer, in any case in which a parent is required by court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through the insurer—

"(A) to permit such parent, upon application and without regard to any enrollment season restrictions, to enroll the parent and such child under such family coverage;

"(B) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(C) not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(3) A law that requires an employer doing business in the State, in the case of health coverage offered through employment with the employer and providing coverage of a child of an employee pursuant to a court or administrative order, to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (to the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act) and to pay such share of premiums to the insurer.

"(4) A law that prohibits an insurer from imposing requirements upon a State agency, which is acting as an agent or subrogee of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or subrogee of any other individual so covered.

"(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(B) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(C) to make payment on claims submitted in accordance with subparagraph (B) directly to the custodial parent or the provider.

"(6) A law that requires the State agency under this title to garnish the wages, salary, or other employment income of, and to withhold amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(B) has received payment from a third party for the costs of such services to such child, but

"(C) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section apply to calendar quarters beginning on or after April 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART V—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS

SEC. 5121. ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS.

(a) DISPROPORTIONATE SHARE HOSPITALS REQUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r-4) is amended—

(1) in subsection (a)(1)(A), by striking "requirement" and inserting "requirements";

(2) in subsection (b)(1), by striking "requirement" and inserting "requirements";

(3) in the heading to subsection (d), by striking "REQUIREMENT" and inserting "REQUIREMENTS";

(4) by adding at the end of subsection (d) the following new paragraph:

"(3) No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.";

(5) in subsection (e)(1)—

(A) by striking "and" before "(B)", and

(B) by inserting before the period at the end the following: ", and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the fourth sentence of subsection (c)"; and

(6) in subsection (e)(2)—

(A) in subparagraph (A), by inserting "(other than the fourth sentence of subsection (c))" after "(c)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking the period at the end of subparagraph (B) and inserting ", and", and

(D) by adding at the end the following new subparagraph:

"(C) subsection (d)(3) shall apply.".

(b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS FOR STATE OR COUNTY HOSPITALS TO UNCOVERED COSTS.—Subsection (c) of such section is amended by adding at the end the following: "A payment adjustment during a year is not considered to be consistent with this subsection with respect to a hospital owned or operated by a State (or by an instrumentality or a unit of government within a State) if the payment adjustment exceeds the costs of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance (or other source of third party payment) for such services during the year. For purposes of the preceding sentence, payments made to a hospital for services provided to indigent patients made by a State or a unit of local government within a State shall not be considered to be a source of third party payment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(1) the end of the State fiscal year that ends during 1994, or

(2) in the case of a State with a State legislature which is not scheduled to have a regular legislative session in 1994, the end of the State fiscal year that ends during 1995;

without regard to whether or not final regulations to carry out such amendments have been promulgated by either such date.

PART VI—ELIMINATION OF ENHANCED FEDERAL MATCHING PAYMENTS

SEC. 5126. ELIMINATION OF ENHANCED FEDERAL MATCHING PAYMENTS.

(a) IN GENERAL.—Section 1903(a) (42 U.S.C. 1396b(a)) is amended to read as follows:

"(a) From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State that has a plan approved under this title, for each quarter—

"(1) an amount with respect to total expenditures during such quarter under the State plan for medical assistance (as defined in section 1905(a)) equal to the sum of—

"(A) an amount equal to 90 percent of such expenditures for family planning services and supplies, plus

"(B) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b), subject to subsections (g) and (j) of this section), of the remainder of such expenditures; plus

"(2) subject to section 1919(g)(3)(C), an amount equal to 50 percent of the remainder of the expenditures during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.".

(b) CONFORMING AMENDMENTS.—

(1) FRAUD CONTROL UNITS.—Section 1903(b) (42 U.S.C. 1396b(b)) is amended by striking paragraph (3).

(2) MEDICAID MANAGEMENT INFORMATION SYSTEMS.—Section 1903(r) (42 U.S.C. 1396b(r)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) In order to receive payments under subsection (a)(2) without being subject to per centum reductions set forth in paragraph (2), a State must have in operation mechanized claims processing and information retrieval systems approved by the Secretary (of the type approved since October 7, 1980) which are determined to be likely to provide more efficient, economical, and effective administration of the plan and which—

"(A) are compatible with the claims processing and information retrieval systems used in the administration of title XVIII, and

"(B) include provision for prompt written notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of such individuals, of the specific services (other than confidential services) so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services.";

(B) by striking paragraphs (2) and (3), and redesignating paragraphs (4) through (8) as paragraphs (2) through (6), respectively;

(C) in paragraph (2), as so redesignated—

(i) in subparagraph (A), by striking "paragraph (6)" and inserting "paragraph (4)", and

(ii) in subparagraph (B)—

(I) by striking "subsection (a)(3)(B)" and inserting "subsection (a)(2)"; and

(II) by striking "not less than 50 per centum and not more than 70 per centum" and inserting "not less than 25 per centum and not more than 45 per centum";

(D) in paragraph (3), as so redesignated—

(i) in the matter in subparagraph (A) preceding clause (i), by striking "subsection (a)(3)(B)" and inserting "paragraph (1)", and

(ii) in subparagraphs (A)(iii) and (B), by striking "paragraph (6)" and inserting "paragraph (4)"; and

(E) in paragraph (4), as so redesignated—

(i) by striking subparagraph (C) and redesignating subparagraphs (D) through (J) as subparagraphs (C) through (I), and

(ii) in subparagraph (H), as redesignated, by striking "subsection (a)(3) of this section" and inserting "subsection (a)(2)".

(3) NURSING HOME ENFORCEMENT.—Section 1919 (42 U.S.C. 1396r) is amended—

(A) in subsection (g)(3)(C), by striking "section 1903(a)(2)(D)" and inserting "section 1903(a)(2) with respect to amounts expended for State activities under this subsection", and

(B) in subsection (h)(2), by striking "1903(a)(7)" and inserting "1903(a)(2)" each place it appears in subparagraphs (E) and (F).

(4) PEER REVIEW FUNDING.—Section 1158 (42 U.S.C. 1320c-7) is amended—

(A) by striking "(a)", and

(B) by striking subsection (b).

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to calendar quarters beginning on or after April 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subchapter B—Miscellaneous Provisions

PART I—ANTI-FRAUD AND ABUSE PROVISIONS

SEC. 5131. INTERMEDIATE SANCTIONS FOR KICKBACK VIOLATIONS.

(a) PENALTY FOR KICKBACKS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by adding "or" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);";

(4) by striking "given)." at the end of the first sentence and inserting "given or, in cases under paragraph (4), $50,000 for each such violation).";

(5) in the second sentence, by inserting "in cases under paragraphs (1), (2), and (3)," after "In addition,"; and

(6) by inserting after the second sentence, the following new sentence: "In cases under paragraph (4), such a person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b), determined without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.".

(b) AUTHORIZATION TO ACT.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is amended by striking all that follows "(b)" and inserting the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to remuneration offered, paid, solicited, or received before, on, or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

SEC. 5132. REQUIRING MAINTENANCE OF EFFORT FOR STATE MEDICAID FRAUD CONTROL UNITS.

(a) IN GENERAL.—Section 1902(a)(49) (42 U.S.C. 1396a(a)(49)) is amended—

(1) by inserting "(A)" after "(49)", and

(2) by adding at the end the following new subparagraph:

"(B) provide that the State will expend for its medicaid fraud and abuse control unit (as defined in section 1903(q)), for each State fiscal year, an amount that is not less than the amount expended for such unit in the State fiscal year that ended in 1992 adjusted to reflect the percentage increase in total expenditures under the State plan between such State fiscal year and the State fiscal year involved;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to State fiscal years ending after 1993.

PART II—MANAGED CARE PROVISIONS

SEC. 5135. MEDICAID MANAGED CARE ANTI-FRAUD PROVISIONS.

(a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking "and" at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting "; and", and

(iii) by adding at the end the following new clause:

"(xii) the entity complies with the requirements of paragraph (3) (relating to certain protections against fraud and abuse).";

(B) in paragraph (2)(B), as amended by section 5158(b), by striking "clause (ix)" and inserting "clauses (ix) and (xii)"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A)(i) A health maintenance organization may not have a person described in clause (iv) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of organization's equity.

"(ii) A health maintenance organization may not have an employment, consulting, or other agreement with a person described in clause (iv) for the provision of goods and services that are significant and material to the organization's obligations under its contract with the State described in paragraph (2)(A)(iii).

"(iii) If a health maintenance organization is not in compliance with clause (i) or clause (ii)—

"(I) a State may continue an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(II) a State may not renew or otherwise extend the duration of an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(iv) A person described in this clause is a person that—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting, or

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subclause (I).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to agreements between a State and an entity under section 1903(m) of the Social Security Act entered into or renewed on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(b) REQUIREMENT FOR STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a)(1)(C), is amended—

(A) by striking "and" at the end of clause (xi),

(B) by striking the period at the end of clause (xii) and inserting "; and", and

(C) by adding at the end the following new clause:

"(xiii) the State certifies to the Secretary that it has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibility with respect to contracts with organizations under this subsection that are at least as effective as the Federal safeguards, provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply as of July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(c) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1)(C), is amended by adding at the end the following new subparagraph:

"(B) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that—

"(i) the entity agrees to report to the State such financial information as the Secretary or the State may require to demonstrate that the entity has a fiscally sound operation; and

"(ii) the entity agrees to make available to its enrollees upon reasonable request—

"(I) the information reported under paragraph (1),

"(II) the information required to be disclosed under sections 1124 and 1126, and

"(III) a description of each transaction, described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act, between the entity and a party in interest (as defined in section 1318(b) of such Act).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date, with respect to information reported or required to be disclosed, or transactions occurring, before, on, or after such date.

(d) PROHIBITING MARKETING FRAUD.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsection (c)(1), is amended by adding at the end the following new subparagraph:

"(C) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity agrees to comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years that begin on or after October 1, 1993, without regard to whether regulations to carry out such amendment are promulgated by such date.

(e) REQUIRING ADEQUATE EQUITY FOR FOR-PROFIT ENTITIES.—

(1) IN GENERAL.—Section 1903(m)(3), as previously amended by this section, is further amended by adding at the end the following new subparagraph:

"(D)(i) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall require, in the case of a for-profit entity, that the entity shall maintain an average ratio of—

"(I) equity capital to

"(II) payments made by the State to the entity under the contract on a capitation basis or any other risk basis,

of not less than such minimum ratio as the Secretary shall specify.

"(ii) The contract between the State and a non-profit entity referred to in paragraph (2)(A)(iii) shall require that no payment shall be made directly or indirectly under an agreement between the non-profit entity and a related for-profit entity (as defined by the Secretary) unless the for-profit entity maintains an average ratio of equity capital to payments under such agreement of not less than such ratio as the Secretary shall specify.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after July 1, 1994, without regard to whether regulations to carry out such amendment are promulgated by such date.

(f) REQUIRING ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting ", which meets such standards as the Secretary shall prescribe" after "satisfactory to the State".

(2) EFFECTIVE DATE AND TRANSITION.—(A) The amendment made by paragraph (1) shall apply to contract years beginning on or after July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(B) If the Secretary of Health and Human Services has not promulgated standards to carry out the amendment made by paragraph (1) by July 1, 1994, until such standards have been promulgated a provision of a health maintenance organization against the risk of insolvency shall not be considered to meet standards prescribed by the Secretary, for purposes of section 1903(m)(1)(A)(ii) of the Social Security Act, unless such provision has been found satisfactory by the Secretary under section 1876(b)(2)(E) of such Act.

(g) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—

(1) IN GENERAL.—Section 1903(m)(3), as previously amended by this section, is amended by adding at the end the following new subparagraph:

"(E) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) a financial statement of the entity's net earnings under the contract during the contract year, which statement has been audited using auditing standards established by the Secretary in consultation with the States; and

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the entity and entitled to medical assistance under the plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(h) REPORT ON NET EARNINGS OF CONTRACTORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the earnings of organizations with contracts to receive payment for providing medical assistance under title XIX of the Social Security Act on a prepaid capitation or any other risk basis. The report shall include the Secretary's recommendations on options for requiring such organizations, as a condition of participation under such title, to dedicate a portion of such earnings to the provision of additional benefits to individuals enrolled with the organization.

SEC. 5136. CLARIFICATION OF TREATMENT OF HMO ENROLLEES IN COMPUTING THE MEDICAID INPATIENT UTILIZATION RATE IN QUALIFYING HOSPITALS AS DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923(b)(2) (42 U.S.C. 1396r-4(b)(2)) is amended by inserting before the period at the end the following: "and whether or not the individual is enrolled with an entity contracting with the State on a prepaid capitation basis or other risk basis under section 1903(m)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans on and after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 5137. EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN.

Section 2 of Public Law 102-276 is amended by striking "January 31, 1994" and inserting "December 31, 1995".

SEC. 5138. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.

Section 6411(f) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 1 of Public Law 102-317, is amended by striking "January 31, 1994" and inserting "December 31, 1995".

SEC. 5139. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.

(a) IN GENERAL.—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described in subsection (b), if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on December 31, 1995.

SEC. 5140. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 507 of the Family Support Act of 1988, as amended by section 6411(j) of OBRA-1989 and by section 4733 of OBRA-1990, is amended by striking "1996" and inserting "1998".

(b) AUTHORITY TO IMPOSE PREMIUM.—

(1) IN GENERAL.—Notwithstanding section 1916 of the Social Security Act and subject to paragraph (2), the State of Minnesota may impose a premium on individuals receiving medical assistance under the Minnesota Prepaid Demonstration Project operated under a waiver granted by the Secretary of Health and Human Services under section 1115(a) of

the Social Security Act and other individuals eligible under the State's plan for medical assistance under title XIX of such Act.

(2) LIMITATION ON AMOUNT OF PREMIUM.—In no case may the amount of any premium imposed on an individual receiving medical assistance under the State plan or under the Demonstration Project described in paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of the individual exceeds 110 percent of the income official poverty line (as defined by the Office of Management and Budget), and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

SEC. 5140A. CONDITIONING FEDERAL FINANCIAL PARTICIPATION ON ENROLLMENT OF BENEFICIARIES IN STAFF OR GROUP MODEL HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—Section 1903 (42 U.S.C. 1396b) is amended by inserting after subsection (r) the following new subsection:

"(s)(1) Notwithstanding the preceding provisions of this section or any other provision of this title, except as provided in paragraph (2), no payment may be made to a State under this section for medical assistance (other than nursing facility services, home or community based services described in section 1915(c)(1), and other long-term care services specified by the Secretary) furnished to any individual who does not receive such assistance through enrollment with a staff or group model health maintenance organization.

"(2) Notwithstanding paragraph (1), payment may be made to a State for medical assistance furnished to an individual other than through enrollment with a staff or group model health maintenance organization if the State demonstrates to the satisfaction of the Secretary that, for the geographic area in which the individual resides, no such organization is available with which the individual may enroll.

"(3) In this subsection, a 'staff or group model health maintenance organization' is a health maintenance organization (as defined in subsection (m)(1)(A)) for which 90 percent of the services of physicians are provided through members of the staff of the organization or through a medical group (or groups).".

(b) REPEAL OF ENROLLMENT MIX REQUIREMENT FOR MEDICAID HMO'S.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended by striking clause (ii).

(2) CONFORMING AMENDMENTS.—Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is further amended—

(A) by striking subparagraphs (C), (D), and (E); and

(B) in subparagraph (F), by striking "In the case of—" and all that follows through "(ii) a program" and inserting "In the case of a program".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to calendar quarters beginning on or after October 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART III—LIMITING FEDERAL MEDICAID MATCHING PAYMENT TO BONA FIDE EMERGENCY SERVICES FOR UNDOCUMENTED ALIENS

SEC. 5141. LIMITING FEDERAL MEDICAID MATCHING PAYMENT TO BONA FIDE EMERGENCY SERVICES FOR UNDOCUMENTED ALIENS.

(a) IN GENERAL.—Section 1903(v)(2) (42 U.S.C. 1396b(v)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) such care and services are not related to an organ transplant procedure.".

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by subsection (a) shall apply as if included in the enactment of OBRA–1986.

(2) The Secretary of Health and Human Services shall not disallow expenditures made for the care and services described in section 1903(v)(2)(C) of the Social Security Act, as added by subsection (a), furnished before the date of the enactment of this Act.

PART IV—MISCELLANEOUS PROVISIONS

SEC. 5144. CRITERIA FOR MAKING DETERMINATIONS OF DENIAL OF FEDERAL MEDICAID MATCHING PAYMENTS TO STATES.

(a) IN GENERAL.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x)(1) In any case in which the Secretary proposes to disallow under section 1116(d) a claim by a State under this section and the State exercises its right of reconsideration under section 1116(d), the Departmental Appeals Board established in the Department of Health and Human Services shall, if such Board upholds the basis for the disallowance, determine whether the amount of the disallowance should be reduced. In making this determination, the Board shall take into account (to the extent the State makes a showing) factors which shall include—

"(A) the nature of the basis for the disallowance;

"(B) whether the amount of the disallowance is proportionate to the error or deficiency on which the disallowance is based;

"(C) whether the basis of the disallowance constitutes noncompliance that prevented or materially affected the provision of appropriate services to individuals eligible under this title; or

"(D) whether Federal guidance with respect to the action that is the basis for the proposed disallowance was insufficient and the State made good faith efforts to conform its action to the intent of the applicable Federal statute or regulation.

"(2) No disallowance shall be taken or upheld if the action of the State on which the disallowance would be based is consistent with its approved State plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

SEC. 5145. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C. 1396a(a)(9)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) that any mammography paid for under such plan must be conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act;".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to mammography furnished by a facility during calendar quarters beginning on or after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5146. REMOVAL OF SUNSET ON EXTENSION OF ELIGIBILITY FOR WORKING FAMILIES.

Subsection (f) of section 1925 (42 U.S.C. 1396r–6) is repealed.

SEC. 5147. NURSING HOME REFORM.

(a) SUSPENSION OF DECERTIFICATION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(1) IN GENERAL.—Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA–1990.

(b) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS OF USE OF DRUGS.—

(1) IN GENERAL.—Section 1919(c)(1)(D) (42 U.S.C. 1396r(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the previous sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA–1987.

(c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking "$50" and inserting "$100".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1993.

(d) DUE PROCESS PROTECTIONS FOR NURSE AIDES.—

(1) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSE AIDE REGISTRY.—Section 1919(e)(2)(B) (42 U.S.C. 1396r(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(2) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1919(g)(1)(C) (42 U.S.C. 1396r(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1993.

(e) AUTHORIZING WAIVER OF NURSING HOME REFORM REQUIREMENTS.—The Secretary of Health and Human Services may waive specified requirements of subsections (b) through (e) of section 1919 of the Social Security Act with respect to nursing facilities located in a State if the State provides assurances satisfactory to the Secretary (including, if appropriate, the implementation of an alternative State program) that the waiver of such requirements will not adversely affect the quality of life of the residents in such facilities.

Subchapter C—Miscellaneous and Technical Corrections Relating to OBRA–1990

SEC. 5151. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subchapter shall take effect as if included in the enactment of OBRA–1990.

SEC. 5152. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA–1990 is amended by striking "1903(u)(1)(C)(iv) (42 U.S.C. 1395b(u)(1)(C)(iv))" and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1395b(u)(1)(D)(iv))".

SEC. 5153. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii), as added by section 4501(b)(3) of OBRA–1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B), as amended by section 4501(c)(1) of OBRA–1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

SEC. 5154. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII), as added by section 4601(a)(10)(A)(iii) of OBRA–1990, is amended by striking "family;" and inserting "family; and".

(b) Section 1902(l), as amended by section 4601(a)(1)(C) of OBRA–1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII),," and inserting "(a)(10)(A)(i)(VII),"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VI),".

(c) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925, as amended by section 4601(a) of OBRA–1990, are each amended by striking "(i)(VI)" and inserting "(i)(VI),".

SEC. 5155. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).

(a) Section 1902(a)(55), as added by section 4602(a)(3) of OBRA–1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "subsection" and inserting "paragraph", and

(B) by striking "(a)" each place it appears; and

(2) in subparagraph (A), by striking "1905(1)(2)(B)" and inserting "1905(l)(2)(B)".

(b) Section 1902(l)(1) is amended by striking "who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and".

SEC. 5156. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) is amended in clause (X) in the matter following subparagraph (F) by striking "under one year of age" and inserting "under 6 years of age".

(b) Section 1902(s), as added by section 4604(a) of OBRA–1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1)).".

(c) Section 1923(a)(2)(C) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.".

SEC. 5157. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA–1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

SEC. 5158. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A), as added by section 4704(b)(1)(C) of OBRA–1990, is amended—

(1) by striking "of such center" the first place it appears;

(2) by striking "federally qualified" and inserting "Federally-qualified";

(3) by inserting "section" before "1905(a)(2)(C)"; and

(4) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B), as amended by section 4704(b)(2) of OBRA–1990, is amended by striking "except with respect to clause (ix) of subparagraph (A)," and inserting "(except with respect to clause (ix) of such subparagraph)".

(c) Section 1905(l)(2), as amended by section 4704(c) of OBRA–1990, is amended—

(1) in subparagraph (A)—

(A) by striking "Federally-qualififed" and inserting "Federally-qualified", and

(B) by striking "an patient" and inserting "a patient"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "a entity" and inserting "an entity",

(B) by striking "or" at the end of clause (i),

(C) by striking the semicolon at the end of clause (ii)(II) and inserting ", or",

(D) by moving clause (ii) 4 ems to the left, and

(E) in the last sentence, by striking "clause (ii)" and inserting "clause (iii)".

SEC. 5159. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

Section 1902(a)(32)(C), as added by section 4708(a)(3) of OBRA–1990, is amended to read as follows:

"(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this clause for payment to the first physician;".

SEC. 5160. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929, as added by section 4711(b) of OBRA–1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

(4) in subsection (e)(2)(B), by striking "fiscal year 1989" and inserting "fiscal year 1990";

(5) in subsection (f)(1), by striking "Community care" and inserting "community care";

(6) in subsection (g)(1)—

(A) by striking "SETTINGS" and inserting "SETTING", and

(B) in subparagraph (B), by striking "setting." and inserting "setting in which home and community care under this section is provided.";

(7) in subsection (g)(2), by striking "community care" the second, third, and fourth places it appears and inserting "home and community care";

(8) in subsection (h)(1)—

(A) by striking "more than 8" each place it appears and inserting "8 or more", and

(B) in subparagraph (B), by inserting "(other than merely board)" after "personal services";

(9) in subsection (h)(2), by striking "community care" the second and third places it appears and inserting "home and community care";

(10) in subsection (j)(1)—

(A) in subparagraph (B)(ii), by striking "1990" and inserting "1991", and

(B) by adding at the end the following new subparagraph:

"(C) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A) and (B) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.";

(11) in subsection (j)(2), by adding at the end the following new subparagraph:

"(D) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A), (B), and (C) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.";

(12) in subsection (k)(1)(A)(i)—

(A) by striking "(d)(2)(E)" and inserting "(d)(2)", and

(B) by striking "settings," and inserting "settings),";

(13) in subsection (l), by striking "State wideness" and inserting "Statewideness";

(14) in subsection (m)—

(A) in paragraph (2), by striking "Individual Community Care Plan" and inserting "individual community care plan",

(B) in paragraph (3), by striking "and need for services" and inserting "need for services, and income",

(C) in the second sentence in paragraph (4), by striking "elderly individuals" and all that follows and inserting "individuals receiving home and community care under this section who reside in such State in relation to the total number of individuals receiving home and community care under this section.", and

(D) by adding at the end the following new paragraph:

"(5) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

"(A) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for a fiscal year (beginning with fiscal year 1994), a State shall submit a notice to the Secretary of its intention to provide such care under this section not later than 3 months before the beginning of the fiscal year.

"(B) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under subparagraph (A) for the fiscal year of the amount of Federal medical assistance that will be available to the State for the fiscal year (as established under paragraph (4)).";

and

(15) by adding at the end the following new subsection:

"(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term 'community care setting' means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).".

(b) Section 1905(r)(5) is amended by striking "1905(a)" and inserting "subsection (a) (other than services described in paragraph (22) or (23) of such subsection)".

(c) Section 4711(f) of OBRA–1990 is amended by striking "Act" each place it appears and inserting "section".

SEC. 5161. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES).

(a) Section 1930, as added by section 4712(b)(2) of OBRA–1990, is amended—

(1) in subsection (b)—

(A) by striking "title the term," and inserting "title, the term",

(B) by striking "guardian" and inserting "guardian or", and

(C) by striking "3 other" and inserting "3";

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "program," and inserting "program", and

(B) in the second sentence, by striking "plan" each place it appears and inserting "program"; and

(3) in subsection (i), by striking "FUNDS" and inserting "FUNDS".

(b) Section 4712(c) of OBRA–1990 is amended—

(1) in paragraph (1), by inserting "of section 1930 of the Social Security" after "subsection (h)"; and

(2) in paragraph (2), by striking "this section" and inserting "such section".

SEC. 5162. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).

(a) Section 1902(a)(10) is amended in the matter following subparagraph (F)—

(1) by striking "; and (XI)" and inserting ", (XI)";

(2) by striking "individuals, and (XI)" and inserting "individuals, and (XII); and

(3) by striking "COBRA continuation premiums" and inserting "COBRA premiums".

(b) Section 1902(u)(3), as added by section 4713(a)(2) of OBRA–1990, is amended by striking "title VI" and inserting "part 6 of subtitle B of title I".

SEC. 5163. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA–1990 is amended by striking "AMENDMENTS.—Subsection (f) of section" and inserting "IN GENERAL.—Section".

SEC. 5164. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPENDDOWN OPTION).

Section 1903(f)(2), as amended by section 4723(a) of OBRA–1990, is amended—

(1) by striking "(A)" after "(2)";

(2) by striking "or, (B)" and inserting ". There shall also be excluded,";

(3) by striking "to the State, provided that" and inserting "to the State if"; and

(4) by striking "pursuant to this subparagraph." and inserting "pursuant to the previous sentence".

SEC. 5165. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v), as added by section 4724 of OBRA–1990, is amended—

(1) by striking "(v)(1)" and inserting "(v)"; and

(2) by striking "of the Social Security Act".

SEC. 5166. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i), as amended by section 4732(b)(2)(B) of OBRA–1990, is amended by striking "or" before "with an eligible organization".

SEC. 5167. CORRECTIONS RELATING TO SECTION 4741 (HOME AND COMMUNITY-BASED WAIVERS).

The first sentence of section 1915(d)(3) is amended by striking the period at the end and inserting the following: ", and a waiver of the requirements of section 1902(a)(23) (relating to choice of providers) insofar as such requirements relate to the provision of case management services and the State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services)."

SEC. 5168. CORRECTIONS RELATING TO SECTION 4744 (FRAIL ELDERLY WAIVERS).

(a) Section 1924(a)(5), as added by section 4744(b)(1) of OBRA–1990, is amended by striking "1986." and inserting "1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.".

(b) Section 603(c) of the Social Security Amendments of 1983 is amended—

(1) by striking "(c)" and inserting "(c)(1)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end the following new paragraph:

"(2) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

SEC. 5169. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA–1990 is amended—

(1) in subsection (a), by striking "subsection (c)" and inserting "subsection (b)";

(2) in subsection (b)(2)—

(A) by striking "preventative" each place it appears and inserting "preventive", and

(B) by adding a period at the end of subparagraph (J);

(3) in subsection (c)(1)—

(A) by striking "subsection (c)" and inserting "subsection (b)", and

(B) by striking "paragraphs (1) and (2) of"; and

(4) in subsection (d)—

(A) by striking "paragraph (3)" and inserting "subsection (b)", and

(B) by striking "paragraph (1)" and inserting "subsection (a)".

SEC. 5170. CORRECTION RELATING TO SECTION 4751 (ADVANCE DIRECTIVES).

Section 1903(m)(1)(A), as amended by section 4751(b)(1) of OBRA–1990, is amended—

(1) by striking "1902(w)" and inserting "1902(w) and"; and

(2) by striking "1902(a)" and inserting "1902(w)".

SEC. 5171. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).

(a) The paragraph (58) of section 1902(a) added by section 4752(c)(1)(C) of OBRA–1990 is amended by striking "subsection (v)" and inserting "subsection (x)".

(b) Subparagraphs (A) and (B) of the paragraph (14) of section 1903(i) added by section 4752(e)(2) of OBRA–1990 are each amended—

(1) by striking "or" at the end of clause (v);

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the state plan approved under this title, or".

SEC. 5172. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I), as amended by section 4801(e)(3) of OBRA–1990, is amended by striking "no later than" before "not to exceed 14 days".

(b) Section 1919(b)(5)(D), as amended by section 4801(a)(4) of OBRA–1990, is amended by striking the comma before "or a new competency evaluation program.".

(c) Section 1919(b)(5)(G) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(d) Section 1919(f)(2)(B)(i) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(e) Section 1919(f)(2)(B)(iii)(I)(c) is amended by striking "clauses" each place it appears and inserting "clause".

(f) Section 1919(g)(5)(B) is amended by striking "paragraphs" and inserting "paragraph".

(g) Section 4801(a)(6)(B) of OBRA–1990 is amended—

(1) by striking "The amendments" and inserting "(i) The amendments";

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

(3) by adding at the end the following new clause:

"(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.".

SEC. 5173. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) is amended—

(1) in the first sentence, by striking "intermediate care facility services" and inserting "for nursing facility services or intermediate care facility services for the mentally retarded"; and

(2) in the second sentence, by striking "or intermediate care facility" and inserting "(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded".

(b) Section 1915(d) is amended—

(1) by striking "skilled nursing facility or intermediate care facility" each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting "nursing facility";

(2) in paragraph (2)(B)(i), by striking "skilled nursing or intermediate care facility" and inserting "nursing facility";

(3) in paragraph (5)(A), by striking "under" the second place it appears and inserting "(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under"; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking "furnished" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished"; and

(B) in clause (iii)(I), by striking "(regardless" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless".

SEC. 5174. CORRECTIONS TO DESIGNATIONS OF NEW PROVISIONS.

(a) PARAGRAPHS ADDED TO SECTION 1902(a).—Section 1902(a) is amended—

(1) by striking "and" at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA–1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA–1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA–1990, immediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA–1990, by striking the period at the end and inserting "; and"; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA–1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(b) PARAGRAPHS ADDED TO SECTION 1903(i).—Section 1903(i), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) in the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, by striking all that follows "1927(g)" and inserting a semicolon;

(2) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA–1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, and by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA–1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting "; or"; and

(4) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA–1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3).

(c) PARAGRAPHS ADDED TO SECTION 1905(a).—

(1) IN GENERAL.—Section 1905(a) is amended—

(A) by striking "and" at the end of paragraph (21);

(B) in paragraph (24), by striking the comma at the end and inserting "; and"; and

(C) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24) after paragraph (23), as so redesignated.

(2) CONFORMING AMENDMENTS.—(A) Effective July 1, 1991, section 1902(a)(10)(C)(iv), as amended by section 4755(c)(1)(A) of OBRA–1990, is amended by striking "through (21)" and inserting "through (23)".

(B) Effective July 1, 1991, section 1902(j), as amended by section 4711(d)(1) of OBRA–1990, is amended by striking "through (22)" and inserting "through (24)".

(d) FINAL SECTIONS.—Section 1928, as redesignated by section 4401(a)(3) of OBRA–1990, is amended—

(1) by transferring such section to the end of title XIX of the Social Security Act; and

(2) by redesignating such section as section 1931.

CHAPTER 2—OTHER HEALTH CARE PROGRAMS

SEC. 5181. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) USE OF VACCINE INJURY COMPENSATION TRUST FUND.—Section 6601(r) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "$2,500,000 for each of fiscal years 1991 and 1992" each place it appears and inserting "$3,000,000 for fiscal year 1994 and each fiscal year thereafter" (in three places).

(b) AMENDMENT OF VACCINE INJURY TABLE.—Section 2116(b) of the Public Health Service Act (42 U.S.C. 300aa–16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(c) EXTENSION OF TIME FOR DECISION.—Section 2112(d)(3)(D) of such Act (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for no more than 6 months at a time)".

(d) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(1) Section 2126(b) of such Act (42 U.S.C. 300aa–26(b)) is amended—

(A) by striking "by rule" in the matter preceding paragraph (1);

(B) by striking, in paragraph (1), ", opportunity for a public hearing, and 90" and inserting "and 30"; and

(C) by striking, in paragraph (2), ", appropriate health care providers and parent organizations".

(2) Section 2126(c) of such Act (42 U.S.C. 300aa–26(c)) is amended—

(A) by inserting "shall be based on available data and information," after "such materials" in the matter preceding paragraph (1), and

(B) by striking paragraphs (1) through (10) and inserting the following:

"(1) a concise description of the benefits of the vaccine,

"(2) a concise description of the risks associated with the vaccine,

"(3) a statement of the availability of the National Vaccine Injury Compensation Program, and

"(4) such other relevant information as may be determined by the Secretary.".

(3) Subsections (a) and (d) of section 2126 of such Act (42 U.S.C. 300aa–26) are each amended by inserting "or to any other individual" after "to the legal representatives of any child".

(4) Subsection (d) of section 2126 of such Act (42 U.S.C. 300aa–26) is amended—

(A) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases.", and

(B) by striking "or other information" in the last sentence.

SEC. 5182. AVAILABILITY OF MEDICAID PAYMENTS FOR CHILDHOOD VACCINE REPLACEMENT PROGRAMS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(D) in the case of payment for a childhood vaccine administered to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a

voluntary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer's bid price to the Centers for Disease Control and Prevention for the vaccine so administered plus a reasonable premium to cover shipping and the handling of returns;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5183. MISCELLANEOUS TECHNICAL CORRECTIONS TO PUBLIC HEALTH SERVICE ACT PROVISIONS.

(a) COMPENSATION FOR MEMBERS OF NATIONAL ADVISORY COUNCIL ON NATIONAL HEALTH SERVICE CORPS.—

(1) IN GENERAL.—Section 337(b)(2) of the Public Health Service Act (42 U.S.C. 254j(b)(2)) is amended—

(A) by inserting after "so serving" the following: "compensation at a rate fixed by the Secretary (but not to exceed", and

(B) by striking "Schedule;" and inserting "Schedule);".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) LIABILITY PROTECTIONS FOR INDIVIDUALS PROVIDING SERVICES AT CERTAIN CLINICS.—

(1) CLARIFICATION OF VOLUNTARY PARTICIPATION BY CERTAIN ENTITIES.—(A) Section 224(g) of the Public Health Service Act (42 U.S.C. 133(g)(1)), as added by section 2(a) of the Federally Supported Health Centers Assistance Act of 1992, is amended—

(i) in paragraph (4), by striking "An entity" and inserting "Except as provided in paragraph (6), an entity", and

(ii) by adding at the end the following new paragraph:

"(6) An entity may elect not to be treated as being described in paragraph (4) if the entity establishes that on a continuous basis since October 24, 1992, the entity has been a participant in, and partial owner of, a nonprofit risk retention group which offers malpractice and other liability coverage to the entity.".

(B) Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "entities receiving funds" and all that follows through "subsection (g)" and inserting the following: "entities described in subsection (g)(4) and receiving funds under each of the grant programs described in such subsection".

(2) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking "officer, employee, or contractor" and inserting the following: "officer or employee of such an entity, and any contractor".

(3) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is amended—

(A) in the first sentence of paragraph (1), by inserting after "Service" the following: "with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals"; and

(B) by adding at the end the following new paragraph:

"(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

"(A) that the provision of the services to such individuals is necessary to assure the treatment of patients of such an entity; or

"(B) that such services are otherwise required to be provided to such individuals under an employment contract (or other similar arrangement) between the individual and the entity.".

(4) DETERMINING COMPLIANCE OF ENTITY WITH REQUIREMENTS FOR COVERAGE.—Section 224(h) of such Act (42 U.S.C. 233(h)), as added by section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "the entity—" and inserting the following: "the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

(c) ELIMINATION OF DUPLICATE WAIVER AUTHORITY FOR PARTICIPANTS IN NATIONAL HEALTH SERVICE CORPS.—Section 338E(c) of the Public Health Service Act (42 U.S.C. 254o(c)) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(d) CLARIFICATION OF PROHIBITION AGAINST RESALE OF DRUGS UNDER DRUG REBATE AGREEMENTS.—Section 340B(a)(5)(B) of the Public Health Service Act (42 U.S.C. 256b(a)(5)(B)), as added by section 602(a) of the Veterans Health Care of 1992, is amended by striking "entity." and inserting "covered entity.".

Subtitle C—Communications Licensing Improvement

SEC. 5200. TABLE OF CONTENTS.

The table of contents is as follows:

Subtitle C—Communications Licensing Improvement

Sec. 5200. Table of contents.

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Sec. 5201. Short title.
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Sec. 5221. Short title.
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CHAPTER 3—COMMUNICATIONS TECHNICAL AMENDMENTS

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CHAPTER 1—COMPETITIVE BIDDING AUTHORITY

SEC. 5201. SHORT TITLE.

This chapter may be cited as the "Licensing Improvement Act of 1993".

SEC. 5202. FINDINGS.

The Congress finds that—

(1) current licensing procedures often delay delivery of services to the public and can result in the unjust enrichment of applicants on the basis of the value of the public airwaves;

(2) if licensees are engaged in reselling the use of the public airwaves to subscribers for a fee, the licensee should pay reasonable compensation to the public for those public resources;

(3) a carefully designed system to obtain competitive bids from competing qualified applicants can speed delivery of services, promote efficient and intensive use of the electromagnetic spectrum, prevent unjust enrichment, and produce revenues to compensate the public for the use of the public airwaves; and

(4) therefore, the Federal Communications Commission should have the authority to differentiate among multiple qualified applicants for a single license using a system of competitive bids.

SEC. 5203. AUTHORITY TO USE COMPETITIVE BIDDING.

Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(j) USE OF COMPETITIVE BIDDING.—

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are filed for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

"(2) USES TO WHICH BIDDING MAY APPLY.—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

"(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return—

"(i) for the licensee enabling those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

"(ii) for the licensee enabling those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

"(B) a system of competitive bidding will promote the objectives described in paragraph (3).

"(3) DESIGN OF SYSTEMS OF COMPETITIVE BIDDING.—For each license or permit, or class of licenses or permits, that the Commission grants through the use of a competitive bidding system, the Commission shall, by rule, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. In identifying licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall seek to promote the purposes specified in section 1 of this Act and the following objectives:

"(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

"(B) promoting economic opportunity and competition and ensuring that new and inno-

vative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women;

"(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource; and

"(D) efficient and intensive use of the electromagnetic spectrum.

"(4) CONTENTS OF REGULATIONS.—In prescribing rules pursuant to paragraph (3), the Commission shall—

"(A) consider alternative payment schedules and methods of calculation, including initial lump sums, installment or royalty payments, guaranteed annual minimum payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

"(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

"(C) consistent with the public interest, convenience, and necessity, the purposes of this Act, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services; and

"(D) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits.

"(5) BIDDER AND LICENSEE QUALIFICATION.—No person shall be permitted to participate in a system of competitive bidding pursuant to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described in paragraph (3), the Commission shall, by rule, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection, or in the use of competitive bidding, shall—

"(A) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

"(B) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection; or

"(C) be construed to prohibit the Commission from issuing nationwide licenses or permits.

"(7) LIMITATION OF EFFECT ON ALLOCATION DECISIONS.—In making a decision pursuant to section 303(c) to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(A) and (4)(C) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

"(8) TREATMENT OF REVENUES.—All proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code. A license or permit issued by the Commission under this section shall not be treated as the property of the licensee for tax purposes by any State or local government entity.

"(9) TERMINATION; EVALUATION.—The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 1998. Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

"(A) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

"(B) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

"(C) evaluating the extent to which such methodologies have secured prompt delivery of service to rural areas; and

"(D) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection.".

SEC. 5204. CONFORMING AMENDMENTS.

Section 309 of the Communications Act of 1934 is further amended—

(1) by striking subsection (i)(1) and inserting the following:

"(i) RANDOM SELECTION.—

"(1) GENERAL AUTHORITY.—If—

"(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

"(B) the Commission has determined that the use is not described in subsection (j)(2)(A);

then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.";

(2) in paragraph (2)—

(A) by indenting paragraph (2), including subparagraphs (A) through (C), by an additional 2 em spaces; and

(B) by inserting "DETERMINATIONS OF QUALIFICATIONS.—" after "(2)";

(3) in paragraph (3)—

(A) by indenting subparagraphs (A) and (B), and so much of subparagraph (C) as precedes clause (i), by an additional 2 em spaces;

(B) by indenting clauses (i) and (ii) of subparagraph (C) by an additional 4 em spaces; and

(C) by inserting "PREFERENCES; DIVERSITY.—" after "(3)";

(4) in paragraph (4)—

(A) by indenting subparagraphs (A) and (B) of such paragraph by an additional 2 em spaces;

(B) by inserting "RULEMAKING SCHEDULE AND AUTHORITY.—" after "(4)"; and

(C) by adding at the end the following new subparagraph:

"(C) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.".

SEC. 5205. REGULATORY PARITY.

(a) AMENDMENT.—Section 332 of the Communications Act of 1934 (47 U.S.C. 332) is amended—

(1) by striking "PRIVATE LAND" from the heading of the section; and

(2) by amending striking subsection (c) and inserting the following:

"(c) REGULATORY TREATMENT OF MOBILE SERVICES.—

"(1) COMMON CARRIER TREATMENT OF COMMERCIAL MOBILE SERVICES.—(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except for such provisions of title II as the Commission may, consistent with the public interest, specify as inapplicable by rule. In prescribing any such rule, the Commission may not specify section 201, 202, or 208, or any other provision that the Commission determines to be necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this Act.

"(2) NONCOMMON CARRIER TREATMENT OF PRIVATE LAND MOBILE SERVICES.—A person engaged in private land mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier (other than a person that was treated as provider of private land mobile services prior to the enactment of the Licensing Improvement Act of 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

"(3) STATE AUTHORITY TO REGULATE.—(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to impose any rate or entry regulation upon any commercial mobile service or any private land mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

"(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any com-

mercial mobile service, and the Commission shall grant such petition, if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the public within such State, or (ii) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(4) REGULATORY TREATMENT OF COMMUNICATIONS SATELLITE CORPORATION.—Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite of 1962 of the corporation authorized by title III of such Act.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercial mobile service' means all mobile services (as defined in section 3(n)) that—

"(A) are provided for profit (i) to the public, (ii) on an indiscriminate basis, or (iii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public; and

"(B) are interconnected (or have requested interconnection pursuant to paragraph (1)(B)) with the public switched network (as such terms are defined by regulation by the Commission); and

"(2) the term 'private mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO DEFINITIONS.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting "(1)" after "and includes"; and

(ii) by inserting before the period at the end the following: ", (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment of the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding"; and

(B) by striking subsection (gg).

(2) CONFORMING AMENDMENTS TO SECTION 332.—Section 332 of such Act is further amended—

(A) in subsection (a), by inserting after "(a)" the following: "MANAGEMENT OF PRIVATE LAND MOBILE FREQUENCIES.—";

(B) in subsection (b)—

(i) by indenting the margin of paragraphs (2) through (4) by 2 em spaces;

(ii) by striking "(b)(1)" and inserting the following:

"(b) USE OF ADVISORY COMMITTEE.—

"(1) COORDINATION OF FREQUENCY ASSIGNMENT.—";

(iii) by inserting "EXEMPTION.—" after "(2)";

(iv) by inserting "NONEMPLOYEE STATUS.—" after "(3)"; and

(v) by inserting "APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—" after "(4).

SEC. 5206. EFFECTIVE DATES; DEADLINES FOR COMMISSION ACTION.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this chapter are effective on the date of enactment of this Act.

(2) EFFECTIVE DATE OF MOBILE SERVICE AMENDMENTS.—The amendments made by section 5205 shall be effective 1 year after such date of enactment, except that any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of private land mobile service until 3 years after such date of enactment.

(b) DEADLINES FOR COMMISSION ACTION.—

(1) GENERAL RULEMAKING.—The Federal Communications Commission shall prescribe rules to implement section 309(j) of the Communications Act of 1934 (as added by this chapter) within 210 days after the date of enactment of this Act.

(2) PCS ORDERS AND LICENSING.—The Commission shall—

(A) within 180 days after such date of enactment, issue a final report and order (i) in the matter entitled "Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies" (ET Docket No. 92-9); and (ii) in the matter entitled "Amendment of the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100); and

(B) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.

(3) MOBILE SERVICE RULEMAKING REQUIRED.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall—

(A) issue such modifications or terminations of its regulations concerning private land mobile services as are necessary to implement the amendments made by section 5205;

(B) make such other modifications of such regulations as may be necessary to equalize the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar; and

(C) include in such modifications and terminations such provisions as are necessary to provide for an orderly transition to the regulatory treatment required by such amendments.

(c) SPECIAL RULE.—The Federal Communications Commission shall not issue any license or permit pursuant to section 309(i) of the Communications Act of 1934 after the date of enactment of this Act unless the Commission has made the determination required by paragraph (1)(B) of such section (as added by this chapter).

CHAPTER 2—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

SEC. 5221. SHORT TITLE.

This chapter may be cited as the "Emerging Telecommunications Technologies Act of 1993".

SEC. 5222. AMENDMENT TO THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ORGANIZATION ACT.

The National Telecommunications and Information Administration Organization Act is amended—

(1) by striking the heading of part B and inserting the following:

"PART D—SPECIAL AND TEMPORARY PROVISIONS";

(3) by redesignating sections 131 through 135 as sections 151 through 155, respectively; and

(2) by inserting after part A the following new part:

"PART B—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

"SEC. 111. FINDINGS.

"The Congress finds that—

"(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

"(2) many of such frequencies are underutilized by Federal Government licensees;

"(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

"(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

"(5) scarcity of assignable frequencies for licensing by the Commission can and will—

"(A) impede the development and commercialization of new telecommunications products and services;

"(B) limit the capacity and efficiency of the United States telecommunications systems;

"(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

"(D) adversely affect the productive capacity and international competitiveness of the United States economy;

"(6) a reassignment of these frequencies can produce significant economic returns; and

"(7) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

"SEC. 112. NATIONAL SPECTRUM PLANNING.

"(a) PLANNING ACTIVITIES.—The Assistant Secretary and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues—

"(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

"(2) the spectrum allocation actions necessary to accommodate those uses; and

"(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

"(b) REPORTS.—The Assistant Secretary and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Secretary, and the Commission on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities.

"(c) REPORTING REQUIREMENTS.—The first annual report submitted after the date of the report by the advisory committee under section 113(d)(4) shall—

"(1) include an analysis of and response to that committee report; and

"(2) include an analysis of the effect on spectrum efficiency and the cost of equipment to Federal spectrum users of maintaining separate allocations for Federal Government and non-Federal Government licensees for the same or similar services.

"SEC. 113. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

"(a) IDENTIFICATION REQUIRED.—The Secretary shall, within 24 months after the date of the enactment of this part, prepare and submit to the President and the Congress a report identifying bands of frequencies that—

"(1) are allocated on a primary basis for Federal Government use and eligible for licensing pursuant to section 305(a) of the Act (47 U.S.C. 305(a));

"(2) are not required for the present or identifiable future needs of the Federal Government;

"(3) can feasibly be made available, as of the date of submission of the report or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under such section 305);

"(4) will not result in costs to the Federal Government, or losses of services or benefits to the public, that are excessive in relation to the benefits that may be obtained by non-Federal licensees; and

"(5) are most likely to have the greatest potential for productive uses and public benefits under the Act.

"(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

"(1) IN GENERAL.—Based on the report required by subsection (a), the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), bands of frequencies that span a total of not less than 200 megahertz, that are located below 6 gigahertz, and that meet the criteria specified in paragraphs (1) through (4) of subsection (a). The Secretary may not include, in such 200 megahertz, bands of frequencies that span more than 20 megahertz and that are located between 5 and 6 gigahertz. If the report identifies (as meeting such criteria) bands of frequencies spanning more than 200 megahertz, the report shall identify and recommend for reallocation those bands (spanning not less than 200 megahertz) that meet the criteria specified in paragraph (5) of such subsection.

"(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary's report recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

"(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimum required by paragraph (1) of this subsection;

"(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

"(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures which the Commission shall establish and implement to ensure against harmful interference.

"(c) CRITERIA FOR IDENTIFICATION.—

"(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

"(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

"(B) seek to promote—

"(i) the maximum practicable reliance on commercially available substitutes;

"(ii) the sharing of frequencies (as permitted under subsection (b)(2));

"(iii) the development and use of new communications technologies; and

"(iv) the use of nonradiating communications systems where practicable; and

"(C) seek to avoid—

"(i) serious degradation of Federal Government services and operations; and

"(ii) excessive costs to the Federal Government and users of Federal Government services.

"(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

"(A) assume such frequencies will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) over the course of not less than 15 years;

"(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

"(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for licensing by the Commission for non-Federal use;

"(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

"(E) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

"(3) ANALYSIS OF BENEFITS.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(4), the Secretary shall consider—

"(A) the extent to which equipment is or will be available that is capable of utilizing the band;

"(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use; and

"(C) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

"(4) POWER AGENCY FREQUENCIES.—

"(A) ELIGIBLE FOR MIXED USE ONLY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas and shall not be recommended for the purposes of withdrawing that assignment. In any case where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall, consistent with the procedures established under subsection (b)(2)(C), not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

"(B) DEFINITION.—As used in this paragraph, the term 'Federal power agency' means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

"(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

"(1) SUBMISSION OF PRELIMINARY IDENTIFICATION TO CONGRESS.—Within 12 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reallocable bands of frequencies which meet the criteria established by this section.

"(2) CONVENING OF ADVISORY COMMITTEE.—Not later than the date the Secretary submits the report required by paragraph (1), the Secretary shall convene an advisory committee to—

"(A) review the bands of frequencies identified in such report;

"(B) advise the Secretary with respect to (i) the bands of frequencies which should be included in the final report required by subsection (a), and (ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

"(C) receive public comment on the Secretary's report and on the final report; and

"(D) prepare and submit the report required by paragraph (4).

The advisory committee shall meet at least monthly until each of the actions required by section 114(a) have taken place.

"(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The advisory committee shall include—

"(A) the Chairman of the Commission and the Assistant Secretary, and one other representative of the Federal Government as designated by the Secretary; and

"(B) representatives of—

"(i) United States manufacturers of spectrum-dependent telecommunications equipment;

"(ii) commercial carriers;

"(iii) other users of the electromagnetic spectrum, including radio and television broadcast licensees, State and local public safety agencies, and the aviation industry; and

"(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

"(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The advisory committee shall, not later than 36 months after the date of the enactment of this part, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report containing such recommendations as the advisory committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between Federal and non-Federal use, and any dissenting views thereon.

"(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—

"(1) TIMETABLE REQUIRED.—The Secretary shall, as part of the report required by subsection (a), include a timetable that recommends immediate and delayed effective dates by which the President shall withdraw or limit assignments on the frequencies specified in the report.

"(2) EXPEDITED REALLOCATION OF INITIAL 30 MHZ PERMITTED.—The Secretary may prepare and submit to the President a report which specifically identifies an initial 30 megahertz of spectrum that meets the criteria described in subsection (a) and that can be made avail-

able for reallocation immediately upon issuance of the report required by this section.

"(3) DELAYED EFFECTIVE DATE.—The recommended delayed effective dates shall—

"(A) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 115(1);

"(B) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

"(C) be based on the need to coordinate frequency use with other nations; and

"(D) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

"SEC. 114. WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

"(a) IN GENERAL.—The President shall—

"(1) within 6 months after receipt of the Secretary's report under section 113(a), withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

"(2) within such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 113(b)(2);

"(3) by the delayed effective date recommended by the Secretary under section 113(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

"(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

"(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

"(b) EXCEPTIONS.—

"(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

"(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

"(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

"(A) the reassignment would seriously jeopardize the national defense interests of the United States;

"(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

"(C) the reassignment would seriously jeopardize public health or safety; or

"(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

"(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section 113(a) unless the substituted frequency also meets each of the criteria specified by section 113(a).

"(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 113(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 115, the President may—

"(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

"(B) substitute alternative frequencies pursuant to the provisions of this subsection.

"(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

"SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

"Not later than 1 year after the President notifies the Commission pursuant to section 114(a)(5), the Commission shall prepare, in consultation with the Assistant Secretary when necessary, and submit to the President and the Congress, a plan for the distribution under the Act of the frequency bands reallocated pursuant to the requirements of this part. Such plan shall—

"(1) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 113(e), shall propose—

"(A) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (B), over the course of a period of not less than 10 years beginning on the date of submission of such plan; and

"(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

"(2) contain appropriate provisions to ensure—

"(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157); and

"(B) the availability of frequencies to stimulate the development of such technologies;

"(3) address (A) the feasibility of reallocating spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations; and

"(4) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

"SEC. 116. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

"(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 114, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

"(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

"(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part.

"(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part, except that the notification required by section 114(b)(1)(A) shall include—

"(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

"(B) an estimate of the cost of displacing spectrum users licensed by the Commission.

"(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency band, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

"(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under sections 305 and 706 of the Act (47 U.S.C. 305, 606).

"SEC. 117. DEFINITIONS.

"As used in this part:

"(1) The term 'allocation' means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

"(2) The term 'assignment' means an authorization given to a station licensee to use specific frequencies or channels.

"(3) The term 'commercial carrier' means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

"(4) The term 'the Act' means the Communications Act of 1934 (47 U.S.C. 151 et seq.).".

CHAPTER 3—COMMUNICATIONS TECHNICAL AMENDMENTS

SEC. 5241. CLERICAL CORRECTIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 4(f)(3), by striking "overtime exceeds beyond" and inserting "overtime extends beyond";

(2) in section 5, by redesignating subsection (f) as subsection (e);

(3) in section 220(b), by striking "clasess" and inserting "classes";

(4) in section 223(b)(3), by striking "defendant restrict access" and inserting "defendant restricted access";

(5) in section 226(d), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(6) in section 227(e)(2), by striking "national datebase" and inserting "national database";

(7) in section 228(c)(6)(D), by striking "conservation" and inserting "conversation";

(8) in section 308(c), by striking "May 24, 1921" and inserting "May 27, 1921";

(9) in section 331, by amending the heading of such section to read as follows:

"VERY HIGH FREQUENCY STATIONS AND AM RADIO STATIONS";

(10) in section 358, by striking "(a)";

(11) in part III of title III—

(A) by inserting before section 381 the following heading:

"VESSELS TRANSPORTING MORE THAN SIX PASSENGERS FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO TELEPHONE";

(B) by inserting before section 382 the following heading:

"VESSELS EXCEPTED FROM RADIO TELEPHONE REQUIREMENT";

(C) by inserting before section 383 the following heading:

"EXEMPTIONS BY COMMISSION";

(D) by inserting before section 384 the following heading:

"AUTHORITY OF COMMISSION; OPERATIONS, INSTALLATIONS, AND ADDITIONAL EQUIPMENT";

(E) by inserting before section 385 the following heading:

"INSPECTIONS"; and

(F) by inserting before section 386 the following heading:

"FORFEITURES";

(12) in section 410(c), by striking ", as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act,";

(13) in section 705(e)(3)(A), by striking "paragraph (4) of subsection (d)" and inserting "paragraph (4) of this subsection";

(14) in section 705, by redesignating subsections (f) and (g) (as added by Public Law 100–667) as subsections (g) and (h); and

(15) in section 705(h) (as so redesignated), by striking "subsection (f)" and inserting "subsection (g)".

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 303(a)—

(A) by striking "section 27(d)" and inserting "section 327(d)";

(B) by striking "sec. 29–911(d)" and inserting "sec. 29–327(d)";

(C) by striking "section 36" and inserting "section 336"; and

(D) by striking "sec. 29–916d" and inserting "sec. 29–336(d)";

(2) in section 304(d), by striking "paragraphs (1), (2), (3), (4), and (5) of section 310(a)" and inserting "subsection (a) and paragraphs (1) through (4) of subsection (b) of section 310"; and

(3) in section 304(e)—

(A) by striking "section 45(b)" and inserting "section 345(b)"; and

(B) by striking "sec. 29–920(b)" and inserting "sec. 29–345(b)"; and

(4) in sections 502(b) and 503(a)(1), by striking "Communications Satellite Corporation" and inserting "communications satellite corporation established pursuant to title III of this Act".

(c) CONFORMING AMENDMENT.—Section 1253 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

SEC. 5242. TRANSFER OF PROVISIONS OF LAW CONCERNING PUBLIC TELECOMMUNICATIONS FACILITIES, CHILDREN'S EDUCATIONAL TELEVISION, AND TELECOMMUNICATIONS DEMONSTRATION PROGRAM.

(a) AMENDMENTS.—The Communications Act of 1934 (hereinafter in this section referred to as "the 1934 Act") and the National Telecommunications and Information Administration Organization Act (hereinafter in this section referred to as "the NTIAO Act") are amended as follows:

(1) The NTIAO Act is amended by inserting after part B (as added by chapter 2 of this subtitle) a new part C, the heading of which shall be as follows:

"PART C—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; CHILDREN'S EDUCATIONAL TELEVISION; TELECOMMUNICATIONS DEMONSTRATIONS";

(2) Sections 390, 391, 392, 393, 393A, 394, and 395 of the 1934 Act are transferred to such new part C of the NTIAO Act and are redesignated as sections 121, 122, 123, 124, 125, 131, and 135, respectively, of the NTIAO Act.

(3) Such new part C of the NTIAO Act is amended—

(A) by inserting before section 121 the following:

"Subpart 1—Assistance for Public Telecommunications Facilities";

(B) by inserting before section 131 the following:

"Subpart 2—National Endowment for Children's Television";

(C) by inserting before section 135 the following:

"Subpart 3—Telecommunications Demonstrations".

(4) Section 125 of the NTIAO Act (as added by paragraph (2) of this subsection) is amended by striking "section 390" and inserting "section 121".

(5) Each of such sections 121 through 135 is amended so that the section designation and section heading of each such shall be in the form and typeface of the section designation and section heading of this section.

(b) CONFORMING AMENDMENT TO COMMUNICATIONS ACT OF 1934.—Part IV of title III of the 1934 Act is amended by striking out subparts A, B, and C.

(c) REFERENCES IN OTHER LAWS AND DOCUMENTS.—Any reference to any section or other provision of subpart A, B, or C of part IV of title III of the 1934 Act in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this section shall be deemed to refer to the section or other provision of subpart 1, 2, or 3 of part C of the NTIAO Act to which such section or other provision is transferred by this section.

SEC. 5243. ELIMINATION OF EXPIRED AND OUTDATED PROVISIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 7(b), by striking "or twelve months after the date of the enactment of this section, if later" both places it appears;

(2) in section 212, by striking "After sixty days from the enactment of this Act it shall" and inserting "It shall";

(3) in section 213, by striking subsection (g) and redesignating subsection (h) as subsection (g);

(4) in section 214(a), by striking "section 221 or 222" and inserting "section 221";

(5) in section 220(b), by striking ", as soon as practicable,";

(6) in section 222—

(A) by striking paragraph (1) of subsection (a);

(B) by redesignating paragraphs (2) and (3) of such subsection as paragraphs (1) and (2), respectively;

(C) by striking paragraph (2) of subsection (b);

(D) by redesignating subsection (b)(1) as subsection (b); and

(E) by striking subsections (c), (d), and (e);

(7) in section 224(b)(2), by striking "Within 180 days from the date of enactment of this section the Commission" and inserting "The Commission";

(8) in 226(e)(1), by striking ", within 9 months after the date of enactment of this section,";

(9) in section 309(i)(4)(A), by striking "The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall," and inserting "The Commission shall,";

(10) by striking section 328;

(11) in section 331(b), by striking the last sentence;

(12) in section 413, by striking ", within sixty days after the taking effect of this Act,";

(13) in section 624(d)(2)—

(A) by striking out "(A)";

(B) by inserting "of" after "restrict the viewing"; and

(C) by striking subparagraph (B);

(14) by striking sections 702 and 703;

(15) in section 704—

(A) by striking subsections (b) and (d); and

(B) by redesignating subsection (c) as subsection (b);

(16) in section 705(g) (as redesignated by section 5211(15)), by striking "Within 6 months after the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission" and inserting "The Commission";

(16) in section 710(f)—

(A) by striking the first and second sentences; and

(B) in the third sentence, by striking "Thereafter, the Commission" and inserting "The Commission";

(17) in section 712(a), by striking ", within 120 days after the effective date of the Satellite Home Viewer Act of 1988,"; and

(18) by striking section 713.

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 201(a)(1), by striking "as expeditiously as possible,";

(2) by striking sections 301 and 302 and inserting the following:

"SEC. 301. CREATION OF CORPORATION.

"There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.

"SEC. 302. APPLICABLE LAWS.

"The corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.";

(3) in section 304(a), by striking "at a price not in excess of $100 for each share and";

(4) in section 404—

(A) by striking subsections (a) and (c); and

(B) by striking "(b)" at the beginning of subsection (b);

(5) in section 503—

(A) by striking paragraph (2) of subsection (a);

(B) by redesignating paragraph (3) of subsection (a) as paragraph (2) of such subsection;

(C) by striking subsection (b);

(D) in subsection (g)—

(i) by striking "subsection (c)(3)" and inserting "subsection (b)(3)"; and

(ii) by striking the last sentence; and

(E) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively;

(5) by striking sections 505, 506, and 507; and

(6) by redesignating section 508 as section 505.

SEC. 5244. STYLISTIC CONSISTENCY.

The Communications Act of 1934 and the Communications Satellite Act of 1962 are amended so that the section designation and section heading of each section of such Acts shall be in the form and typeface of the section designation and heading of this section.

Subtitle D—Energy Programs

SEC. 5301. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1995" and inserting "September 30, 1998".

TITLE VI—COMMITTEE ON THE JUDICIARY

SEC. 6001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1998";

(2) in subsection (b)(2) by striking "1995" and inserting "1998"; and

(3) in subsection (c)—

(A) by striking "through 1995" and inserting "through 1998"; and

(B) by adding at the end the following:

"(6) $111,000,000 in fiscal year 1996.

"(7) $115,000,000 in fiscal year 1997.

"(8) $119,000,000 in fiscal year 1998.".

TITLE VII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 7001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by—

(1) striking "and 1995," each place it appears and inserting "1995, 1996, 1997, and 1998,";

(2) striking "place," and inserting "place;"; and

(3) striking "port, not, however, to include vessels in distress or not engaged in trade" and inserting "port. However, neither duty shall be imposed on vessels in distress or not engaged in trade".

(b) CONFORMING AMENDMENT.—The Act of March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "and 1995," and inserting "1995, 1996, 1997, and 1998,".

(c) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 10402(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-398) is amended by striking "in the second paragraph".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after November 5, 1990.

TITLE VIII—COMMITTEE ON NATURAL RESOURCES

SEC. 8001. ANNUAL DIRECT GRANT ASSISTANCE.

(a) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 entitled "a Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes" (90 Stat. 263 and following; 48 U.S.C. 1681 note) are repealed, effective on October 1, 1993.

(b) DEFINITIONS.—As used in this section:

(1) COMMITTEES.—The term "committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) RECOMMENDATIONS.—The term "Recommendations" means the document executed December 17, 1992, between the special representative of the President of the United States and the special representatives of the Governor of the Commonwealth of the Northern Mariana Islands relating to future federal assistance for the Northern Mariana Islands.

(3) REPORTING DATE.—The term "reporting date" means the date on which the budget of the President for the fiscal year 1995 is required to be submitted to the Congress under section 1105 of title 31, United States Code.

(c) ASSISTANCE.—

(1) AMOUNTS.—Except as otherwise provided under this section, enactment of this section shall constitute a commitment and pledge of the full faith and credit of the United States for the payment of the following amounts:

(A) In fulfillment of the United States obligation under P.L. 94-241 and the authorization in P.L. 95-348, $3,000,000 for fiscal year 1994, which shall be available only for the American Memorial Park, located at Tanapag Harbor Reservation, Saipan, to be expended in accordance with section 5 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), for the primary purpose of constructing an appropriate monument honoring the dead in the World War II Mariana Islands campaign.

(B) $19,000,000 for fiscal year 1994, to be held in trust in a special account by the Secretary of the Interior for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands, and to be disbursed by the Secretary during fiscal year 1994 for essential capital improvement projects. Such disbursements shall be made by the Secretary for projects described in plans submitted to the Secretary by the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. No such disbursements shall be made pursuant to any such plan until after the expiration of a period of 60 days after such plan has been submitted to the committees. No such disbursements shall be made to the Commonwealth of the Northern Mariana Islands during fiscal year 1994 pursuant to any such plan until the committees have received the reports required under subsection (d)(3) and a Joint Resolution has been adopted expressing the sense of Congress that disbursements are appropriate. The Inspector General of the Department of the Interior shall (i) monitor the expenditure of such funds to determine whether such funds are expended in accordance with applicable law, and (ii) submit a report of the findings to the committees not later than January 1, 1995.

(C) Subject to paragraphs (2), (3), and (4) and subject to subsection (d), not more than $98,000,000 for the 6-year period beginning October 1, 1994, for the government of the Commonwealth of the Northern Mariana Islands, for capital improvement projects, at annual amounts that shall not exceed those specified for the Federal contribution within the general funding schedule contained in the Recommendations.

(2) MATCHING RATIO AND INTEREST EARNINGS.—Nothing in this section shall be construed to—

(A) modify the matching ratio requirement specified in the funding schedule contained in the Recommendations; or

(B) modify the terms of the Recommendations as to the availability of interest earnings on funds contributed under Public Law 99-396 upon meeting the terms of the grant pledge agreements entered into under Public Law 99-396.

(3) ROTA, TINIAN, AND SAIPAN.—No less than 1/8 th share of the funds made available under subsection (c)(1)(C) shall be expended in the islands of Rota and Tinian and no less than 1/4 th share shall be expended in Saipan.

(4) APPLICABILITY OF GRANT REGULATIONS.—The Federal assistance provided under this section shall be subject to the applicable Federal grant regulations set forth in the Common Rule (43 C.F.R. 12a, OMB Circular A-102, and OMB Circular A-128).

(d) CONDITION ON MULTI-YEAR ASSISTANCE.—

(1) JOINT RESOLUTION.—Amounts under subsection (c)(1)(C) for fiscal years 1995 through 2000 shall be as determined by the Congress by joint resolution. It is the intent of the Congress that the committees report such a joint resolution after considering the plan referred to in paragraph (2) and reports required by this subsection.

(2) CAPITAL IMPROVEMENT PROJECTS PLAN.—The plan referred to in paragraph (1) is a plan developed and submitted by the Governor of the Commonwealth of the Northern Mariana Islands to the Secretary of the Interior as approved by the legislature of the Commonwealth for new and reconstructed capital infrastructure projects, indicating the order of priority, together with cost estimates for each project and identification of sources of financing for each project. The Secretary of the Interior shall submit the plan, together with his recommendations, to the committees not later than the reporting date.

(3) REPORTS.—Each of the following reports shall be submitted to the committees not later than the reporting date as follows:

(A) REVENUE BURDEN.—The Comptroller General of the United States, after consultation with the government of the Northern Mariana Islands, shall submit a report describing the effective revenue burden (including all taxes and fees) imposed by the government of the Commonwealth of the Northern Mariana Islands. The report shall—

(i) address whether revenues raised are sufficient to meet the infrastructure needs of the Commonwealth; and

(ii) compare the revenue burden of the Commonwealth with that of Guam.

(B) COMPLIANCE WITH AUDIT RECOMMENDATIONS.—The Inspector General of the Department of the Interior shall submit a report on (i) compliance by the government of the Commonwealth of the Northern Mariana Islands with recommendations made by the Inspector General pursuant to audits of the government of the Commonwealth, and (ii) on all unfulfilled commitments made by the government of the Commonwealth in response to those recommendations.

(C) ASSESSMENT OF MINIMUM WAGE.—The Secretary of Labor, after consultation with the government of the Commonwealth of the Northern Mariana Islands, shall submit a report which assesses whether—

(i) the minimum wage policies of the Commonwealth are sufficient for the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers in the Commonwealth;

(ii) the prevailing wages paid in the Commonwealth are effectively reduced by the

immigration policy of the Commonwealth; and

(iii) the wage rate in the Commonwealth gives industries in the Commonwealth a competitive advantage over industries in the United States outside of the Commonwealth.

(D) IMMIGRATION POLICY AND BURDEN ON INFRASTRUCTURE.—(i) The Attorney General of the United States, after consultation with the government of the Commonwealth of the Northern Mariana Islands, shall submit a report which assesses—

(I) whether the immigration laws of the Commonwealth are appropriate in light of the social and economic situation in the Commonwealth;

(II) the extent to which the Commonwealth is relying on temporary alien workers to meet the Commonwealth's permanent labor needs;

(III) whether the Commonwealth has taken steps to reduce its dependence on temporary alien workers; and

(IV) the political and civil rights of the alien population as compared to the resident population.

(ii) The Comptroller General of the United States shall submit a report to the Congress which analyzes the socioeconomic impact of the immigration policy of the Commonwealth of the Northern Mariana Islands, including the financial burden imposed by the alien population on the infrastructure.

(E) ENVIRONMENTAL LAWS.—The Secretary of the Interior and the Administrator of the Environmental Protection Agency shall each submit a report to the Congress on the compliance by the Commonwealth of the Northern Mariana Islands with United States environmental laws, including (but not limited to) the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the Federal Water Pollution Control Act.

SEC. 8002. NET RECEIPTS SHARING.

Section 35 of the Mineral Leasing Act is amended as follows:

(1) Strike the last sentence.

(2) Insert "(a) IN GENERAL.—" after "SEC. 35."

(3) Insert "and, subject to subsection (b)," between "United States;" and "50 percentum".

(4) Add the following new subsection at the end thereof:

"(b) ADMINISTRATIVE COSTS.—(1) In calculating the amount to be paid to each State during any fiscal year under this section and under other provisions of law requiring payment to a State of any revenues derived from the leasing of any other onshore lands or interest in land owned by the United States for the production of the same types of minerals as are leasable under this Act or for the production of geothermal steam, prior to the division and distribution of such leasing receipts between the States and the United States, the Secretary shall deduct 50 percent of the portion of the enacted appropriations of the Department of the Interior and of other departments and agencies of the United States for the preceding fiscal year allocable to the administration and enforcement of this Act and such other provisions of law. Such deduction shall be in approximately equal amounts each month (subject to paragraph (3)).

"(2) The proportion of the deduction required under paragraph (1) which is allocable to each State shall be a percentage of the total deduction allocable to all States. The percentage shall be determined by dividing—

"(A) the monies disbursed to the State during the preceding fiscal year under the provisions of this section and the other provisions of law referred to in paragraph (1), by

"(B) the total money disbursed to all States during that fiscal year under such provisions.

"(3) If the amount otherwise deductible under this subsection in any month from the portion of revenues to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted from amounts payable to the State in subsequent months.

"(4) All amounts deducted under this subsection from monies otherwise payable to a State shall be credited to miscellaneous receipts in the Treasury.".

SEC. 8003. HARD ROCK MINING CLAIM MAINTENANCE AND LOCATION FEES.

(a) CLAIM MAINTENANCE AND LOCATION FEES.—

(1) CLAIM MAINTENANCE FEES.—The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States (whether located before or after enactment of this Act) shall pay to the Secretary of the Interior or his designee for each assessment year a flat claim maintenance fee of not less than $100 per claim. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(2) LOCATION FEE.—For each mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States after the date of enactment of this Act, the claimant shall pay the Secretary a location fee of $25.

(b) TIME OF PAYMENT.—The claim maintenance fee payable under subsection (a)(1) for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under subsection (a)(2) shall be payable not later than 90 days after the date of location

(c) DEPOSIT IN TREASURY.—The Secretary shall deposit monies received under this Act as miscellaneous receipts in the Treasury.

(d) CO-OWNERSHIP.—The co-ownership provisions of section 2324 of the Mining Law of 1872 (30 U.S.C. 28) shall remain in effect with respect to mining claims subject to such provisions except that the annual claim maintenance fee, where applicable, shall be paid in lieu of applicable assessment requirements and expenditures.

(e) FORFEITURE.—Failure to make the annual payment of any claim maintenance or location fee required with respect to any unpatented mining claim, mill, or tunnel site required by subsection (a) shall conclusively constitute a forfeiture by the holder of the unpatented mining claim, mill or tunnel site, effective at noon on the date the payment is due.

(f) FLPMA FILING REQUIREMENTS.—Nothing in this Act shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)) or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by such section 314(b). Such requirements shall remain in effect with respect to claims, and mill or tunnel sites for which fees are required to be paid under this section.

(g) RULES AND REGULATIONS.—The Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the date of enactment of this Act.

(h) PURCHASING POWER ADJUSTMENT.—Every 5 years following the date of enactment of this Act, or more frequently if the Secretary determines a more frequent adjustment to be reasonable, the Secretary of the Interior shall adjust the fees specified in subsection (a) to reflect changes in the purchasing power of the dollar. The Secretary shall use the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890). The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made. A fee adjustment under this paragraph shall begin to apply the first assessment which begins after the adjustment is made.

(i) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

(j) EXCEPTION FOR HOLDERS OF FEWER THAN 50 CLAIMS.—

(1) ELIGIBILITY.—In accordance with paragraph (3), a claimant may be eligible for a waiver or reduction of the claim maintenance fees imposed under this section if the claimant certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 50 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work sufficient to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due; except that such performance of assessment work shall not be required by reason of section 5 of Public Law 94–429, commonly known as the Mining in the Parks Act, or such other laws that before the date of the enactment of this Act removed the applicability of the assessment work requirement of the general mining laws for any claim subject to such laws.

(2) HOLDER.—For purposes of paragraph (1), with respect to any claimant, the term "related parties" means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

(B) a person affiliated with the claimant, including—

(i) a person controlled by, controlling, or under common control with the claimant; and

(ii) a subsidiary or parent company or corporation of the claimant.

(3) WAIVED OR REDUCED MAINTENANCE FEES.—

(A) 10 OR FEWER CLAIMS.—The Secretary of the Interior may waive the claim maintenance fee imposed under this section in its entirety for 10 or fewer claims held by a claimant eligible under paragraph (1).

(B) 11 OR MORE CLAIMS.—

(i) IN GENERAL.—Subject to clause (ii), for a claimant eligible under paragraph (1), the Secretary may reduce the claim maintenance fee imposed under this section to $25 per claim for each claim in excess of 10.

(ii) LIMITATION.—The reduction provided for in this subparagraph shall be available for no more than 50 claims held by a claimant who is eligible under paragraph (1).

(4) PAYMENT IN LIEU OF ANNUAL LABOR REQUIREMENTS.—The third sentence of section 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after "On each claim located after the tenth day of May, eighteen hundred and seventy-two," the following: "for which a waiver of the maintenance fee, or a reduced maintenance fee, under section 8003 of the Omnibus Budget Reconcilition Act of 1993 has been granted under subsection (j) of that section,".

(5) FILING REQUIREMENTS.—The holder of any unpatented mining claim for which a waiver of the maintenance fee, or a reduced maintenance fee, has been granted pursuant to this subsection shall continue to be subject to the filing requirements contained in sections 314(a) and (c) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(k) EFFECTIVE DATE.—This section shall take effect with respect to assessment years beginning after August 31, 1994.

SEC. 8004. FEDERAL IRRIGATION WATER SURCHARGE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the construction and operation of Federal reclamation projects have contributed to the depletion of streams, the alteration of riparian habitat, and the degradation of water quality;

(B) such impacts have had adverse impacts on fish and wildlife resources; and

(C) the restoration of fish and wildlife and related habitat affected by the construction or operation of Federal reclamation projects is a continuing responsibility of the beneficiaries of such projects.

(2) PURPOSES.—The purposes of this section are to—

(A) incorporate the restoration of fish and wildlife resources and related habitat affected by the construction or operation of Federal reclamation projects into the annual operation and maintenance requirements of such projects;

(B) establish a fair and equitable mechanism for securing timely payments from the beneficiaries of such projects for the implementation, operation, and maintenance of fish and wildlife restoration measures;

(C) accelerate the rate of restoration and recovery of depleted populations of indigenous fish and wildlife; and

(D) encourage more efficient use of water resources by the beneficiaries of Federal reclamation projects.

(b) OPERATIONAL CHARGES.—

(1) IN GENERAL.—Individuals or non-Federal entities that receive delivery of water (including by exchange) which is stored in or transported through Federal reclamation projects or project facilities or projects or project facilities constructed by the Secretary of the Army that meet the conditions specified in paragraph (1) or (2) of section 212(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 43 U.S.C. 390*ll*), except for facilities of the Central Valley Project, California (as that project is defined by title XXXIV of Public Law 102-575), shall, pursuant to such terms, conditions, and procedures as the Secretary of the Interior may prescribe, pay to the United States an operation and maintenance charge sufficient to yield at least $10,000,000 (January 1993 price levels) annually in the years 1994, 1995, and 1996 and at least $15,000,000 (January 1993 price levels) annually in 1997 and each year thereafter.

(2) PAYMENTS.—Payments required by paragraph (1) shall be made without reduction or deferral by the Secretary under any provision of reclamation law and without regard to whether an individual or entity has discharged its repayment obligation within the meaning of the first section of the Act of July 2, 1956 (70 Stat. 483; 43 U.S.C. 485h-1), section 213 of the Reclamation Reform Act of 1982 (Public Law 97-293, 43 U.S.C. 390mm), or any other provision of Federal Reclamation law. The payments shall be in addition to any other repayments owed or made to the United States and shall not be applied or credited to an individual's or entity's repayment of project construction costs, payment of other annual project operation and maintenance costs, payment of interest, or reduction of any contractual obligation the individual or entity may have with the United States.

(c) NATURAL RESOURCES RESTORATION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the "Natural Resources Restoration Fund" (hereafter in this section referred to as the "Fund"). All payments of the operation and maintenance charges authorized in subsection (b) shall be deposited in the Fund, and shall be available in the fiscal year following deposit and thereafter, to such extent or in such amounts as are provided in advance in appropriation Acts, for expenditures by the Secretary of the Interior for the benefit of fish and wildlife resources, including habitat, affected by construction or operation of the projects referred to in this section.

(d) INDIAN LAND OWNERS.—For the purposes of this section, Indian tribes or individual Indian beneficial owners of land held in trust by the United States or subject to a restriction against alienation by the United States shall be considered to be Federal entities.

(e) FEDERAL RECLAMATION LAW.—This section shall constitute an amendment of and a supplement to the Federal Reclamation laws (the Reclamation Act of 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto).

SEC. 8005. RECREATION USER FEES.

(a) LAND AND WATER CONSERVATION FUND ACT OF 1965.—

(1) IN GENERAL.—The first sentence of section 4(b) of the Land and Water Conservation Fund Act of 1965 (relating to recreation use fees) is amended by striking out "picnic tables, or boat ramps" and all that follows down through the period at the end thereof and inserting the following: "or picnic tables, and in no event shall there be any charge for the use of any campground not having a majority of the following: tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, fee collection by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). For purposes of this subsection, the term 'specialized outdoor recreation site' includes but shall not be limited to campgrounds, swimming sites, boat launch facilities, and managed parking lots.". The second sentence of such section 4(b) is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 210 of Public Law 90-483 (82 Stat. 746; 16 U.S.C. 460d-3) is repealed.

(b) COSTS OF COLLECTION.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (relating to special accounts for fees collected) is amended by inserting "(A)" after "(1)" and by adding the following at the end of paragraph (1):

"(B) Notwithstanding subparagraph (A), in any fiscal year, the Secretary of Agriculture and the Secretary of the Interior may withhold from the special account established under subparagraph (A) such portion of all receipts the fees collected in that fiscal year under this section as such Secretary determines to be equal to the additional fee collection costs for that fiscal year. The amounts so withheld shall be retained by the Secretary of Agriculture or the Secretary of the Interior and shall be available, without further appropriation, for expenditure by the Secretary concerned in the fiscal year in which collected to cover such additional fee collection costs. The Secretary concerned shall deposit in the special account established pursuant to subparagraph (A) any amounts so retained which remain unexpended and unobligated at the end of such fiscal year. For the purposes of this subparagraph, for any fiscal year, the term 'additional fee collection costs' means those costs for personnel and infrastructure directly associated with the collection of fees imposed under this section which exceed the costs for personnel and infrastructure directly associated with the collection of such fees during fiscal year 1993.".

(c) GOLDEN AGE PASSPORT.—The second sentence of section 4(a)(4) of the Land and Water Conservation Fund Act of 1965 (relating to Golden Age Passports) is amended to read as follows: "Such permit shall be nontransferable, shall be issued for a charge of $10, and shall entitle the permittee and the permittee's spouse accompanying the permittee to general admission into any area designated pursuant to this section.".

(d) USER FEES FOR RIGHTS-OF-WAY.—In each fiscal year after the enactment of this Act, the Secretary of the Interior shall impose and collect an annual fee for the use and occupancy of any right-of-way through any national park system unit for which a permit has been issued by the Secretary pursuant to any general or specific statutory right-of-way authority (whether issued before or after the enactment of this Act) or for any other right-of-way allowed as of the date of the enactment of this Act. The amount of such annual fee shall be equal to the fair market rental value, as determined by the Secretary, of such use and occupancy for the fiscal year concerned. The fair market value shall be reviewed (and revised if necessary) not less frequently than every 3 years. The Secretary shall deposit all fees collected under this subsection in the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(e) COMMERCIAL TOUR USE FEES.—(1) In the case of each unit of the National Park System for which an admission fee is charged under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4), the Secretary of the Interior shall establish, by October 1, 1993, a commercial tour use fee to be imposed on each vehicle or aircraft entering the unit (or the airspace of the unit) for the purpose of providing commercial tour services within (or within the air space of) the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(2) The Secretary shall establish the amount of fee to be imposed under this subsection per entry. The fee shall not be less than—

(A) $25 per vehicle or aircraft with a passenger capacity of 25 persons or less,

(B) $50 per vehicle or aircraft with a passenger capacity of 26 to 99 persons, and

(C) $100 per vehicle or aircraft with a passenger capacity of 100 to 299 persons.

The Secretary may periodically increase the fee imposed under this subsection as he deems necessary and justifiable.

(3) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

(A) Any vehicle or aircraft transporting organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

(B) Any vehicle or aircraft entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20–20g) entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes".

(f) FAIR MARKET VALUE FOR COMMUNICATION SITE FEES.—No permit or other authorization for the use of any area of the public lands of the United States for purposes of commercial telephone transmission facilities shall remain in force and effect after January 1, 1994 unless, before that date, and before January 1 of each year thereafter, the holder of such permit or other authorization pays to Secretary of the Department having administrative jurisdiction over such lands an amount equal to the fair market value, as determined by such Secretary, of the right to use and occupy such area for such purposes. For purposes of this subsection, the term "public lands of the United States" means lands owned by the United States and administered by the Secretary of the Interior (other than lands held for the benefit of Indians, Aleuts, and Eskimos) and lands within the National Forest System.

SEC. 8006. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1995" and inserting "September 30, 1998".

SEC. 8007. RECOVERING THE COST FOR GOVERNMENT SERVICES.

(a) REPORT.—Not later than January 1, 1994, the Secretary of the Interior and the Secretary of Energy shall each submit a report identifying fees, penalties, and other charges to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each report shall—

(1) identify all fees, penalties, and other charges imposed by the respective Secretary for the provision of services;

(2) include the procedures for adjusting such fees to recover the cost of providing those services; and

(3) identify those services for which no fee is currently charged and make recommendations for a fee appropriate to cover the cost of providing each service.

(b) ADJUSTMENT OF FEES.—Except as provided in subsection (d), for fiscal year 1995 and each fiscal year thereafter, the Secretary of the Interior and the Secretary of Energy shall adjust each fee, penalty, and other charge for the provision of services identified pursuant to subsection (a)(1). Each such fee, penalty, and charge shall be adjusted in accordance with the procedures identified pursuant to subsection (a)(2).

(c) IMPLEMENTATION OF FEES FOR SERVICES NOT COVERED.—Beginning with fiscal year 1995, the Secretary of the Interior and the Secretary of Energy shall charge fees for each of the services identified pursuant to subsection (a)(3) in an amount sufficient to recover the cost of providing the service. For each fiscal year thereafter, the fee shall be adjusted in the same manner as adjustments are made pursuant to subsection (b), using fiscal year 1995 as the base year.

(d) CERTAIN FEES, PENALTIES AND CHARGES NOT COVERED.—Subsection (b) shall not apply to any fee, penalty, or charge the amount of which is expressly specified in any statute or contract.

SEC. 8008. UNFUNDED LIABILITIES OF THE FEDERAL GOVERNMENT.

Section 1105 of title 31, United States Code, is amended by adding the following subsection at the end thereof:

"(g) The President shall transmit with materials related to each budget an estimate of unfunded future liabilities of the Federal Government that are not accounted for in the budget itself. Such estimate shall include (but not be limited to) liabilities for future remediation of environmental and natural resources damage, and cleaning up waste sites, on Federal lands. Sources of liabilities shall include (but not be limited to) active, inactive, or abandoned mines or oil or gas wells, irrigation waste water impacts, decommissioning of nuclear power plants, and uranium mining and processing activities (without regard to the location of such mining or processing activities) affecting the health of Native Americans and carried out pursuant to a program administered by the United States.".

SEC. 8009. HETCH HETCHY DAM.

Section 7 of the Act of December 13, 1913 (38 Stat. 242), is amended—

(1) by striking "$30,000" in the first sentence and inserting "$20,000,000", and

(2) by amending the second and third sentences to read as follows: "These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.".

TITLE IX—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Subtitle A—Civil Service

SEC. 9001. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and 8420a of title 5, United States Code, are each amended—

(1) in subsection (a) by striking "an employee or Member may," and inserting "any employee or Member who has a life-threatening affliction or other critical medical condition may,"; and

(2) by striking subsection (f).

(b) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—Section 807(e)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—Section 294(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2143(a)), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102-496; 106 Stat. 3196), is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1994, and shall apply with respect to any annuity commencing on or after that date.

SEC. 9002. APPLICATION OF MEDICARE PART B LIMITS TO PHYSICIANS' SERVICES FURNISHED TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) IN GENERAL.—Section 8904(b) of title 5, United States Code, is amended—

(1) in paragraph (1) by inserting "(A)" after "(b)(1)" and by adding at the end the following:

"(B)(i) A plan, other than a prepayment plan described in section 8903(4), may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not entitled to Medicare supplementary medical insurance benefits under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), to pay a charge imposed for physicians' services (as defined in section 1848(j) of such Act, 42 U.S.C. 1395w–4(j)) which are covered for purposes of benefit payments under this chapter and under such part, to the extent that such charge exceeds the fee schedule amount under section 1848(a) of such Act (42 U.S.C. 1395w–4(a)).

"(ii) Physicians and suppliers who have in force participation agreements with the Secretary of Health and Human Services consistent with section 1842(h)(1) of such Act (42 U.S.C. 1395u(h)(1)), whereby the participating provider accepts Medicare benefits (including allowable deductible and coinsurance amounts) as full payment for covered items and services shall accept equivalent benefit and enrollee cost-sharing under this chapter as full payment for services described in clause (i). Physicians and suppliers who are nonparticipating physicians and suppliers for purposes of part B of title XVIII of such Act shall not impose charges that exceed the limiting charge under section 1848(g) of such Act (42 U.S.C. 1395w–4(g)) with respect to services described in clause (i) provided to enrollees described in such clause. The Office of Personnel Management shall notify a physician or supplier who is found to have violated this clause and inform them of the requirements of this clause and sanctions for such a violation. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a physician or supplier is found to knowingly and willfully violate this clause on a repeated basis and the Secretary of Health and Human Services may invoke appropriate sanctions in accordance with sections 1128A(a) and section 1848(g)(1) of such Act (42 U.S.C. 1320a–7a(a), 1395w–4(g)(1)) and applicable regulations.

"(C) If the Secretary of Health and Human Services determines that a violation of this subsection warrants excluding a provider from participation for a specified period under title XVIII of the Social Security Act, the Office shall enforce a corresponding exclusion of such provider for purposes of this chapter.";

(2) in paragraph (3)(B)—

(A) by inserting "(i)" after "includes"; and

(B) by inserting before the period at the end the following: ", and (ii) the fee schedule amounts and limiting charges for physicians' services established under section 1848 of such Act (42 U.S.C. 1395w–4) and the identity of participating physicians and suppliers who have in force agreements with such Secretary under section 1842(h) of such Act (42 U.S.C. 1395u(h))"; and

(3) by adding at the end the following:

"(4) The Director of the Office of Personnel Management shall certify, before the first day of the fifth month that begins before each contract year, that there is in effect an arrangement with the Secretary of Health and Human Services under which, before the beginning of the contract year—

"(A) physicians and suppliers (whether or not participating) under the Medicare program will be notified of the requirements of paragraph (1)(B);

"(B) enforcement procedures will be in place to carry out such paragraph (including enforcement of protections against overcharging of beneficiaries); and

"(C) Medicare program information described in paragraph (3)(B)(ii) will be supplied to carriers under paragraph (3)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. 9003. TEMPORARY EXTENSION OF METHOD FOR DETERMINING GOVERNMENT CONTRIBUTIONS UNDER FEHBP IN THE ABSENCE OF A GOVERNMENT-WIDE INDEMNITY BENEFIT PLAN.

(a) IN GENERAL.—Public Law 101-76 (5 U.S.C. 8906 note) is amended in subsection (a)(1) by striking "1993" and inserting "1998".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that nothing in this section should be considered to reflect any view on the appropriateness, merits, or timing, or any other aspect of any comprehensive health care reform legislation.

Subtitle B—Postal Service

SEC. 9011. PAYMENTS TO BE MADE BY THE UNITED STATES POSTAL SERVICE.

(a) RELATING TO CORRECTED CALCULATIONS FOR PAST RETIREMENT COLAs.—In addition to any other payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund a total of $693,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and

(3) any remaining balance shall be paid not later than September 30, 1997.

(b) RELATING TO CORRECTED CALCULATIONS FOR PAST HEALTH BENEFITS.—In addition to any other payments required under section 8906(g)(2) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Employees Health Benefits Fund a total of $348,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and

(3) any remaining balance shall be paid not later than September 30, 1997.

TITLE X—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SEC. 10001. AVIATION FEES FOR SERVICES.

(a) IN GENERAL.—Section 313(f) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354(f)) is amended to read as follows:

"(f) FEES FOR SERVICES.—

"(1) IMPOSITION AND COLLECTION.—The following fees are imposed and shall be collected for services rendered:

"(A) AIRCRAFT REGISTRATION FEES.—

"(i) GENERAL RULE.—For registration of an aircraft, the fee to be collected from the owner of the aircraft in each fiscal year beginning after September 30, 1993, shall be determined under the following table:

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.

If the ownership of the aircraft is also transferred in such fiscal year, the fee to be collected for registration of the aircraft in such fiscal year under this subparagraph, as determined from the table, shall be increased by such amount as the Administrator shall determine so that the average amount of the increase for all aircraft collected under this sentence in such fiscal year will be approximately $200.00.

"(ii) EXEMPTIONS.—No fee shall be collected under this subparagraph for registration of an aircraft in a fiscal year if the aircraft—

"(I) is owned or operated by an air carrier exclusively to provide air transportation;

"(II) is owned by, or operated exclusively by or for, the United States Government;

"(III) is registered under a dealer's aircraft registration certificate issued under section 505 of this Act;

"(IV) is not originally certificated with an engine driven electrical system or has not subsequently been certified by the Administrator with such a system installed; or

"(V) is a balloon or glider.

"(B) DESIGNATION AS AVIATION MEDICAL EXAMINERS.—For designation of a person as an aviation medical examiner, the fee to be collected from such person in each fiscal year beginning after September 30, 1993, shall be $500.

"(C) ISSUANCE OF CERTIFICATES TO PILOTS.—After September 30, 1993, the fee to be collected for issuance or renewal of an airman's certificate to a pilot shall be $12. The fee shall be collected from each pilot at least once every 3 fiscal years.

"(2) CONTINUATION OF FEE FOR PROCESSING OF FORMS FOR MAJOR FUEL TANK ALTERATIONS.—

"(A) ESTABLISHMENT AND COLLECTION.—The Administrator may establish such fees as may be necessary to cover the costs associated with processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(B) MAXIMUM AMOUNT.—The amount of any fee under this subsection with respect to processing of a form for a major repair or alternation of a fuel tank or fuel system of an aircraft may not exceed $7.50. Such maximum amount shall be adjusted annually by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(3) COLLECTION AND DEPOSIT IN TRUST FUND.—The amounts of all fees established by or under this subsection shall be collected by the Administrator, or the Secretary of the Treasury for the Administrator, and shall be deposited in the Airport and Airway Trust Fund.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 313 is amended by striking

"(f) Processing fees."

and inserting

"(f) Fees for services.".

SEC. 10002. RECREATIONAL USER FEES.

(a) IN GENERAL.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d-3) is amended—

(1) by striking "SEC. 210. No entrance" and inserting the following:

"SEC. 210. RECREATIONAL USER FEES.

"(a) PROHIBITION ON ADMISSIONS FEES.—No entrance";

(2) by striking the second sentence; and

(3) by adding at the end the following new subsection:

"(b) FEES FOR USE OF DEVELOPED RECREATION SITES AND FACILITIES.—

"(1) ESTABLISHMENT AND COLLECTION.—Notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(b)), the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps.

"(2) EXEMPTION OF CERTAIN FACILITIES.—The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

"(3) PER VEHICLE LIMIT.—The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site or facility at which a fee is charged for use of the site or facility as of the date of the enactment of this paragraph) for persons entering the site or facility by private, noncommercial vehicle shall not exceed $3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(4) DEPOSIT INTO TREASURY ACCOUNT.—All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(i)).".

(b) CONFORMING AMENDMENT FOR CAMPSITES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(b)) is amended by striking the next to the last sentence.

TITLE XI—COMMITTEE ON VETERANS AFFAIRS

SEC. 11001. SHORT TITLE.

This title may be cited as the "Veterans Reconciliation Act of 1993".

SEC. 11002. EXTENSION OF AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 38 U.S.C. 1710 note) is amended—

(1) by striking out "September 30, 1992" in the first sentence and inserting in lieu thereof "September 30, 1998"; and

(2) by striking out the second sentence.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended—

(1) by striking out "September 30, 1992" in the first sentence and inserting in lieu thereof "September 30, 1998"; and

(2) by striking out the second sentence.

SEC. 11003. EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.

(a) IN GENERAL.—Section 1729(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "non-service-connected"; and

(2) in paragraph (2)—

(A) by inserting "disability and, during the period before October 1, 1998, to a service-connected" after "non-service-connected" in the matter preceding subparagraph (A); and

(B) by striking out "before August 1, 1994," in subparagraph (E) and inserting in lieu thereof "before October 1, 1998,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to care and services furnished under chapter 17 of title 38, United States Code, after September 30, 1993.

SEC. 11004. EXTENSION OF AUTHORITY FOR CERTAIN INCOME VERIFICATION PROVISIONS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(b) AUTHORITY FOR SECRETARY OF TREASURY TO PROVIDE INFORMATION.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out "September 30, 1997" in the last sentence and inserting in lieu thereof "September 30, 1998".

SEC. 11005. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

SEC. 11006. DENIAL OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.

During fiscal year 1994, no increase may be provided in the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code.

SEC. 11007. EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) INCLUSION OF LOSSES.—Section 3732(c) of title 38, United States Code, is amended—

(1) in paragraph (1)(C), by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),"; and

(2) in paragraph (11), by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to all liquidation sales occurring on or after October 1, 1993.

SEC. 11008. INCREASE IN HOME LOAN FEES.

Paragraph (6) of section 3729(a) of title 38, United States Code, is amended to read as follows:

"(6) With respect to a loan closed after September 30, 1993, and before October 1, 1998, for which a fee is collected under paragraph (1), the amount of such fee, as computed under paragraph (2), shall be increased by 0.75 percent of the total loan amount other than in the case of a loan described in subparagraph (A), (D)(ii), or (E) of paragraph (2).".

SEC. 11009. REDUCTION OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) BENEFITS PAYABLE UNDER CHAPTER 30.—Section 3015(g)(1) of title 38, United States Code, is amended by inserting "less one percentage point" after "June 30, 1993,".

(b) BENEFITS PAYABLE UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(2)(A) of title 10, United States Code, is amended by inserting "less one percentage point" after "June 30, 1993,".

(c) TECHNICAL AMENDMENTS.—(1) Section 301(c) of Public Law 102-568 (106 Stat. 4326) is amended by striking out "Section 3015(f)" and inserting in lieu thereof "Section 3015(g) (as redesignated by section 307(a)(1))".

(2) Section 307(a) of such Public Law (106 Stat. 4328) is amended by striking out "(as amended by section 301)".

(3) The amendments made by paragraphs (1) and (2) shall apply as if included in the enactment of Public Law 102-568.

SEC. 11010. LIMITATION ON CHILDREN ELIGIBLE FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) REVISION IN DEFINITION OF CHILDREN ELIGIBLE.—Section 3501(a)(2) of title 38, United States Code, is amended by inserting ", but does not include an individual who is not the natural or legally adopted child of the parent from whom eligibility under this chapter is derived" before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) does not apply with respect to any individual who, before October 1, 1993, files an original application for educational assistance under chapter 35 of title 38, United States Code.

TITLE XII—COMMITTEE ON WAYS AND MEANS—SAVINGS

Subtitle A—Old-Age, Survivors, and Disability Insurance Program

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SEC. 12001. EXPLICIT REQUIREMENTS FOR MAINTENANCE OF TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) MAINTENANCE OF SERVICE TO LOCAL OFFICES.—

(1) IN GENERAL.—Section 5110(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-272) is amended by adding at the end the following new sentence: "In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service at least the same number of telephone lines to each such local office as was in place as of such date, including telephone sets for connections to such lines.".

(2) EFFECTIVE DATE.—The Secretary of Health and Human Services shall ensure that the requirements of the amendment made by paragraph (1) are carried out no later than 90 days after the date of the enactment of this Act.

(3) GAO REPORT.—The Comptroller General of the United States shall make an independent determination of the number of telephone lines to each local office of the Social Security Administration which are in place as of 90 days after the enactment of this Act and shall report his findings to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 150 days after the date of the enactment of this Act.

(b) MAINTENANCE OF TOLL-FREE TELEPHONE NUMBER SERVICE.—The Secretary of Health and Human Services shall ensure that toll-free telephone service provided by the Social Security Administration is maintained at a level which is at least equal to that in effect on the date of the enactment of this Act.

SEC. 12002. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) LIMITATION ON MANDATORY COVERAGE OF STATE ELECTION OFFICIALS AND ELECTION WORKERS WITHOUT STATE RETIREMENT SYSTEM.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) for any subsequent year with respect to service performed during such subsequent year".

(2) AMENDMENT TO FICA.—Section 3121(b)(7)(F)(iv) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting

"$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) for any subsequent year with respect to service performed during such subsequent year".

(2) AMENDMENT TO FICA.—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year".

(c) AUTHORITY FOR STATES TO MODIFY COVERAGE AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS AND ELECTION WORKERS.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking "on or after January 1, 1968," and inserting "at any time";

(2) by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under subparagraph (B) for any subsequent year with respect to service performed during such subsequent year"; and

(3) by striking the last sentence and inserting the following new sentence: "Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.".

(d) INDEXATION OF EXEMPT AMOUNT.—Section 218(c)(8) of such Act (as amended by subsection (c)) is further amended—

(1) by inserting "(A)" after "(8)"; and

(2) by adding at the end the following new subparagraph:

"(B) For each year after 1994, the Secretary shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

"(i) for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

"(ii) such amount as so adjusted, if not a multiple of $100, shall be rounded to the next higher multiple of $100 where such amount is a multiple of $50 and to the nearest multiple of $100 in any other case.

The Secretary shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1994.

SEC. 12003. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS AND FEDERAL DISTRICT COURTS FOR JURY SELECTION PURPOSES.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking "(E)" in the matter preceding subclause (I) and inserting "(F)";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) It is the policy of the United States that—

"(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

"(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

"(ii) The additional purposes described in this clause are the following:

"(I) identifying duplicate names of individuals on master lists used for jury selection purposes, and

"(II) identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

"(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

"(iv) For purposes of this subparagraph, the term 'State' has the meaning such term has in subparagraph (D).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12004. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICEMEN AND FIREMEN UNDER EXISTING COVERAGE AGREEMENTS.

(a) IN GENERAL.—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—

(1) in paragraph (1), by striking "(1)" after "(l)", and by striking "the State of" and all that follows through "prior to the date of enactment of this subsection" and inserting "a State entered into pursuant to this section"; and

(2) by striking paragraph (2).

(b) CONFORMING AMENDMENT.—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking "agreements with the States named in" and inserting "State agreements modified as provided in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act.

SEC. 12005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411(b)), and, if such individual's primary insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.

SEC. 12006. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION.

(a) IN GENERAL.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking "but excluding" and all that follows through "1937" and inserting "but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233"; and

(2) in subparagraph (E), by inserting after "in the case of an individual" the following: "whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual".

(b) CONFORMING AMENDMENT RELATING TO BENEFITS UNDER 1939 ACT.—Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended by striking "but excluding" and all that follows through "1937" and inserting "but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f)(1) of the Social Security Act (42 U.S.C. 415(f)(1))) with respect to benefits payable for months after October 1993.

SEC. 12007. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) EXCLUSION FROM GOVERNMENT PENSION OFFSET PROVISIONS.—Subsections (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4)) are each amended—

(1) in subparagraph (A)(ii), by striking "unless subparagraph (B) applies.";

(2) in subparagraph (A), by striking "The" in the matter following clause (ii) and inserting "unless subparagraph (B) applies. The"; and

(3) in subparagraph (B), by redesignating the existing matter as clause (ii), and by inserting before such clause (ii) (as so redesignated) the following:

"(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).".

(b) EXCLUSION FROM WINDFALL ELIMINATION PROVISIONS.—Section 215(a)(7)(A) of such Act (as amended by section 13006(a) of this Act) and section 215(d)(3) of such Act (as amended by section 13006(b) of this Act) are each further amended—

(1) by striking "and" before "(II)"; and

(2) by striking "section 233" and inserting "section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f) of the Social Security Act) with respect to benefits payable for months after October 1993.

SEC. 12008. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) of the Social Security Act (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended by striking "section 222(b). Whenever" and inserting the following: "section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

"(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

"(B) who does not live in the same household as such individual, and

"(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever".

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking "Such report need not be made" and all that follows through "The Secretary may grant" and inserting the following: "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

"(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

"(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

"(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant".

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1994.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1994, in taxable years ending after such date.

SEC. 12009. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES.

(a) IN GENERAL.—Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

"(10)(A) Subject to subparagraphs (B) and (C)—

"(i) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(B)(i) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 215(i) that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insurance benefits or reentitled to disability insurance benefits or died, and

"(ii) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(C) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

"(B) In any case in which—

"(i) the total monthly benefits with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

"(ii) the individual's primary insurance amount is computed under subparagraph (B)(i) or (C) of section 215(a)(2) by reason of the individual's entitlement to old-age insurance benefits or death,

the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his prior entitlement to disability insurance benefits if such total monthly benefits had been computed without regard to paragraph (6).

"(C) This paragraph shall apply before the application of paragraph (3)(A), and before the application of section 203(a)(1) of this Act as in effect in December 1978.".

(b) CONFORMING AMENDMENT.—Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended by striking "Subject to paragraph (7)," and inserting "Subject to paragraph (7) and except as otherwise provided in paragraph (10)(C),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for the purpose of determining the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 of the Social Security Act based on the wages and self-employment income of an individual who—

(1) becomes entitled to an old-age insurance benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance benefit under section 223 of such Act, or

(3) dies,

after October 1993.

SEC. 12010. AUTHORIZATION FOR DISCLOSURE BY THE SECRETARY OF HEALTH AND HUMAN SERVICES OF INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) IN GENERAL.—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (f) (as so redesignated), by striking "subsection (d)" and inserting "subsection (e)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of this section, in any case in which—

"(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

"(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or redisclosure of such information as may be specified by the Secretary,

the Secretary shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 205(r).".

(b) AVAILABILITY OF INFORMATION RETURNS REGARDING WAGES PAID EMPLOYEES.—Section 6103(l)(5) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information to the Department of Health and Human Services for purposes other than tax administration) is amended—

(1) by striking "for the purpose of" and inserting "for the purpose of—";

(2) by striking "carrying out, in accordance with an agreement" and inserting the following:

"(A) carrying out, in accordance with an agreement";

(3) by striking "program." and inserting "program; or"; and

(4) by adding at the end the following new subparagraph:

"(B) providing information regarding the mortality status of individuals for epidemio-

logical and similar research in accordance with section 1106(d) of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 12011. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY PROGRAMS AND AGENCIES.

(a) PROHIBITION OF UNAUTHORIZED REPRODUCTION, REPRINTING, OR DISTRIBUTION FOR FEE OF CERTAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b-10(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.".

(b) ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—

(1) in subparagraph (A) (as redesignated), by striking "Administration', the letters 'SSA' or 'HCFA'," and inserting "Administration', 'Department of Health and Human Services', 'Health and Human Services', 'Supplemental Security Income Program', or 'Medicaid', the letters 'SSA', 'HCFA', 'DHHS', 'HHS', or 'SSI',"; and

(2) in subparagraph (B) (as redesignated), by striking "Social Security Administration" each place it appears and inserting "Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services", and by striking "or of the Health Care Financing Administration".

(c) EXEMPTION FOR USE OF WORDS, LETTERS, SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOVERNMENT AGENCIES BY SUCH AGENCIES.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: "The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.".

(d) INCLUSION OF REASONABLENESS STANDARD.—Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking "convey" and inserting "convey, or in a manner which reasonably could be interpreted or construed as conveying,".

(e) INEFFECTIVENESS OF DISCLAIMERS.—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new paragraph:

"(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, reprinted, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.".

(f) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C. 1320b-10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.".

(g) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b-10(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) of such Act is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking "subparagraph (B)" and inserting "paragraph (2)".

(h) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b-10(c)(1)) is amended by inserting "and the first sentence of subsection (c)" after "and (i)".

(i) PENALTIES RELATING TO SOCIAL SECURITY ADMINISTRATION DEPOSITED IN OASI TRUST FUND.—Section 1140(c)(2) of such Act (42 U.S.C. 1320b-10(c)(2)) is amended in the second sentence by striking "United States." and inserting "United States, except that, to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivor's Insurance Trust Fund.".

(j) ENFORCEMENT.—Section 1140 of such Act (42 U.S.C. 1320b-10) is amended by adding at the end the following new subsection:

"(d) The preceding provisions of this section shall be enforced through the Office of Inspector General of the Department of Health and Human Services.".

(k) ANNUAL REPORTS.—Section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new subsection:

"(e) The Secretary shall include in the annual report submitted pursuant to section 704 a report on the operation of this section during the year covered by such annual report. Such report shall specify—

"(1) the number of complaints of violations of this section received by the Social Security Administration during the year,

"(2) the number of cases in which a notice of violation of this section was sent by the Social Security Administration during the year requesting that an individual cease activities in violation of this section,

"(3) the number of complaints of violations of this section referred by the Social Security Administration to the Inspector General in the Department of Health and Human Services during the year,

"(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

"(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

"(6) the total amount of civil money penalties assessed under this section during the year,

"(7) the number of requests for hearings filed during the year pursuant to subsection (c)(1) of this section and section 1128A(c)(2),

"(8) the disposition during such year of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and

"(9) the total amount of civil money penalties under this section deposited into the Federal Old-Age and Survivors Insurance Trust Fund during the year.".

(l) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

SEC. 12012. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) UNAUTHORIZED DISCLOSURE.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(1) by striking "misdemeanor" and inserting "felony";

(2) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(3) by striking "one year" and inserting "5 years".

(b) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(1) by inserting "social security account number," after "information as to the";

(2) by striking "misdemeanor" and inserting "felony";

(3) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(4) by striking "one year" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 12013. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment

taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1993, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or his delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

(b) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (within the meaning of subsection (y)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (y)) for such year;".

(B) Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For purposes of subsection (a)(7)(B)—

"(1) EXCLUSION FOR CERTAIN FARM SERVICE.—The term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5).

"(2) APPLICABLE DOLLAR THRESHOLD.—The term 'applicable dollar threshold' means $1,800. In the case of calendar years after 1994, the Secretary of Health and Human Services shall adjust such $1,800 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If the amount determined under the preceding sentence is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50."

(C) The second sentence of section 3102(a) of such Code is amended—

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "$50" and inserting "the applicable dollar threshold (as defined in section 3121(y)(2)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(y)(2) of the Internal Revenue Code of 1986) for such year. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(4) RELIEF FROM LIABILITY FOR CERTAIN UNDERPAYMENT AMOUNTS.—

(A) IN GENERAL.—On and after the date of the enactment of this Act, an underpayment to which this paragraph applies (and any penalty, addition to tax, and interest with respect to such underpayment) shall not be assessed (or, if assessed, shall not be collected).

(B) UNDERPAYMENTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to an underpayment to the extent of the amount thereof which would not be an underpayment if—

(i) the amendments made by paragraph (1) had applied to all calendar years after 1950 and before 1994, and

(ii) the applicable dollar threshold for any such calendar year were the amount determined under the following table:

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

SEC. 12014. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) IN GENERAL.—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1993.

SEC. 12015. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended to read as follows:

"(1) 1.75 percent of the wages (as defined in section 3121 of the Internal Revenue Code of 1986) paid after December 31, 1992, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1986, which wages shall be certified by the Secretary of Health and Human Services on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and".

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended to read as follows:

"(2) 1.75 percent of the self-employment income (as defined in section 1402 of the Internal Revenue Code of 1986) reported to the Secretary of the Treasury or his delegate on

tax returns under subtitle F of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1992, which self-employment income shall be certified by the Secretary of Health and Human Services on the basis of the records of self-employment income established and maintained by the Secretary of Health and Human Services in accordance with such returns.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1992, and self-employment income for taxable years beginning after such date.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) MATTERS TO BE INCLUDED IN STUDY.—In conducting the study under this subsection, the Secretary shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than December 31, 1995, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Secretary determines appropriate.

SEC. 12016. TECHNICAL AND CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT.—

(1) Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended, in the matter following clause (4), by striking "and and" and inserting "and".

(2) Section 202(d)(8)(D)(ii) of such Act (42 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a period at the end and by adjusting the left hand margination thereof so as to align with section 202(d)(8)(D)(i) of such Act.

(3) Section 202(q)(1)(A) of such Act (42 U.S.C. 402(q)(1)(A)) is amended by striking the dash at the end.

(4) Section 202(q)(9) of such Act (42 U.S.C. 402(q)(9)) is amended, in the matter preceding subparagraph (A), by striking "parargaph" and inserting "paragraph".

(5) Section 202(t)(4)(D) of such Act (42 U.S.C. 402(t)(4)(D)) is amended by inserting "if the" before "Secretary" the second and third places it appears.

(6) Clauses (i) and (ii) of section 203(f)(5)(C) of such Act (42 U.S.C. 403(f)(5)(C)) are amended by adjusting the left-hand margination thereof so as to align with clauses (i) and (ii) of section 203(f)(5)(B) of such Act.

(7) Paragraph (3)(A) and paragraph (3)(B) of section 205(b) of such Act (42 U.S.C. 405(b)) are amended by adjusting the left-hand margination thereof so as to align with the matter following section 205(b)(2)(C) of such Act.

(8) Section 205(c)(2)(B)(iii) of such Act (42 U.S.C. 405(c)(2)(B)(iii)) is amended by striking "non-public" and inserting "nonpublic".

(9) Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by striking the clause (vii) added by section 2201(c) of Public Law 101-624; and

(B) by redesignating the clause (iii) added by section 2201(b)(3) of Public Law 101-624, clause (iv), clause (v), clause (vi), and the clause (vii) added by section 1735(b) of Public Law 101-624 as clause (iv), clause (v), clause (vi), clause (vii), and clause (viii), respectively;

(C) in clause (v) (as redesignated), by striking "subclause (I) of", and by striking "subclause (II) of clause (i)" and inserting "clause (ii)"; and

(D) in clause (viii)(IV) (as redesignated), by inserting "a social security account number or" before "a request for".

(10) The heading for section 205(j) of such Act (42 U.S.C. 405(j)) is amended to read as follows:

"Representative Payees".

(11) The heading for section 205(s) of such Act (42 U.S.C. 405(s)) is amended to read as follows:

"Notice Requirements".

(12) Section 208(c) of such Act (42 U.S.C. 408(c)) is amended by striking "subsection (g)" and inserting "subsection (a)(7)".

(13) Section 210(a)(5)(B)(i)(V) of such Act (42 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking "section 105(e)(2)" and inserting "section 104(e)(2)".

(14) Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(A) in paragraph (13), by striking "and" at the end; and

(B) in paragraph (14), by striking the period and inserting "; and".

(15) Section 213(c) of such Act (42 U.S.C. 413(c)) is amended by striking "section" the first place it appears and inserting "sections".

(16) Section 215(a)(5)(B)(i) of such Act (42 U.S.C. 415(a)(5)(B)(i)) is amended by striking "subsection" the second place it appears and inserting "subsections".

(17) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting a period after "1990".

(18) Subparagraph (F) of section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended by adjusting the left-hand margination thereof so as to align with section 218(c)(6)(E) of such Act.

(19) Section 223(i) of such Act (42 U.S.C. 423(i)) is amended by adding at the beginning the following heading:

"Limitation on Payments to Prisoners".

(b) RELATED AMENDMENTS.—

(1) Section 603(b)(5)(A) of Public Law 101-649 (amending section 202(n)(1) of the Social Security Act) (104 Stat. 5085) is amended by inserting "under" before "paragraph (1)," and by striking "(17), or (18)" and inserting "(17), (18), or (19)", effective as if this paragraph were included in such section 603(b)(5)(A).

(2) Section 10208(b)(1) of Public Law 101-239 (amending section 230(b)(2)(A) of the Social Security Act) (103 Stat. 2477) is amended by striking "230(b)(2)(A)" and "430(b)(2)(A)" and inserting "230(b)(2)" and "430(b)(2)", respectively, effective as if this paragraph were included in such section 10208(b)(1).

(c) CONFORMING, CLERICAL AMENDMENTS UPDATING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN TITLE II OF THE SOCIAL SECURITY ACT TO THE INTERNAL REVENUE CODE.—

(1)(A) Section 201(a) of such Act (42 U.S.C. 401(a)) is amended—

(i) by striking clauses (1) and (2);

(ii) in clause (3), by striking "(3) the taxes imposed" and all that follows through "December 31, 1954," and inserting "(1) the taxes imposed by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,", and by striking "subchapter or";

(iii) in clause (4), by striking "(4) the taxes imposed" and all that follows through "such Code," and inserting "(2) the taxes imposed by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1986 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code,", and by striking "subchapter or chapter" and inserting "chapter"; and

(iv) in the matter following the clauses amended by this subparagraph, by striking "clauses (3) and (4)" each place it appears and inserting "clauses (1) and (2)".

(B) The amendments made by subparagraph (A) shall apply only with respect to taxes imposed with respect to wages paid on or after January 1, 1993, or with respect to self-employment income for taxable years beginning on or after such date.

(2)(A)(i) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is amended—

(I) in subparagraph (A)(i), by striking "and subchapter E" and all that follows through "1954" and inserting "and chapters 2 and 21 of the Internal Revenue Code of 1986";

(II) in subparagraph (A)(ii), by striking "1954" and inserting "1986";

(III) in the matter in subparagraph (A) following clause (ii), by striking "subchapter E" and all that follows through "1954." and inserting "chapters 2 and 21 of the Internal Revenue Code of 1986.", and by striking "1954 other" and inserting "1986 other"; and

(IV) in subparagraph (B), by striking "1954" each place it appears and inserting "1986".

(ii) The amendments made by clause (i) shall apply only with respect to periods beginning on or after the date of the enactment of this Act.

(B)(i) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended by striking "section 3101(a)" and all that follows through "1950." and inserting "section 3101(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code).", and by striking "wages reported" and all that follows through "1954," and inserting "wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,".

(ii) The amendments made by clause (i) shall apply only with respect to wages paid on or after January 1, 1993.

(C) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended—

(i) by striking "The Board of Trustees shall prescribe before January 1, 1981, the method" and inserting "If at any time or times the Boards of Trustees of such Trust Funds deem such action advisable, they may modify the method prescribed by such Boards";

(ii) by striking "1954" and inserting "1986"; and

(iii) by striking the last sentence.

(3) Section 202(v) of such Act (42 U.S.C. 402(v)) is amended—

(A) in paragraph (1), by striking "1954" and inserting "1986"; and

(B) in paragraph (3)(A), by inserting "of the Internal Revenue Code of 1986" after "3127".

(4) Section 205(c)(5)(F)(i) of such Act (42 U.S.C. 405(c)(5)(F)(i)) is amended by inserting "or the Internal Revenue Code of 1986" after "1954".

(5)(A) Section 208(a)(1) of such Act (42 U.S.C. 408(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "subchapter E" and all that follows through "1954" and inserting "chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1986";

(ii) in subparagraph (A), by inserting "of 1986" after "Internal Revenue Code"; and

(iii) in subparagraph (B), by inserting "of 1986" after "Internal Revenue Code".

(B) The amendments made by subparagraph (A) shall apply only with respect to violations occurring on or after the date of the enactment of this Act.

(6)(A) Section 209(a)(4)(A) of such Act (42 U.S.C. 409(a)(4)(A)) is amended by inserting "or the Internal Revenue Code of 1986" after "Internal Revenue Code of 1954".

(B) Section 209(a) of such Act (42 U.S.C. 409(a)) is amended—

(i) in subparagraphs (C) and (E) of paragraph (4),

(ii) in paragraph (5)(A),

(iii) in subparagraphs (A) and (B) of paragraph (14),

(iv) in paragraph (15),

(v) in paragraph (16), and

(vi) in paragraph (17),

by striking "1954" each place it appears and inserting "1986".

(C) Subsections (b), (f), (g), (i)(1), and (j) of section 209 of such Act (42 U.S.C. 409) are amended by striking "1954" each place it appears and inserting "1986".

(7) Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by inserting "of the Internal Revenue Code of 1986" after "section 162(m)".

(8) Title II of such Act is further amended—

(A) in subsections (f)(5)(B)(ii) and (k) of section 203 (42 U.S.C. 403),

(B) in section 205(c)(1)(D)(i) (42 U.S.C. 405(c)(1)(D)(i)),

(C) in the matter in section 210(a) (42 U.S.C. 410(a)) preceding paragraph (1) and in paragraphs (8), (9), and (10) of section 210(a),

(D) in subsections (p)(4) and (q) of section 210 (42 U.S.C. 410),

(E) in the matter in section 211(a) (42 U.S.C. 411(a)) preceding paragraph (1) and in paragraphs (3), (4), (6), (10), (11), and (12) and clauses (iii) and (iv) of section 211(a),

(F) in the matter in section 211(c) (42 U.S.C. 411(c)) preceding paragraph (1), in paragraphs (3) and (6) of section 211(c), and in the matter following paragraph (6) of section 211(c),

(G) in subsections (d), (e), and (h)(1)(B) of section 211 (42 U.S.C. 411),

(H) in section 216(j) (42 U.S.C. 416(j)),

(I) in section 218(e)(3) (42 U.S.C. 418(e)(3)),

(J) in section 229(b) (42 U.S.C. 429(b)),

(K) in section 230(c) (42 U.S.C. 430(c)), and

(L) in section 232 (42 U.S.C. 432),

by striking "1954" each place it appears and inserting "1986".

(d) RULES OF CONSTRUCTION.—

(1) The preceding provisions of this section shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.

(2) Any reference in title II of the Social Security Act to the Internal Revenue Code of 1986 shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).

(e) UTILIZATION OF NATIONAL AVERAGE WAGE INDEX FOR WAGE-BASED ADJUSTMENTS.—

(1) DEFINITION OF NATIONAL AVERAGE WAGE INDEX.—Section 209(k) of the Social Security Act (42 U.S.C. 409(k)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) in paragraph (3) (as redesignated), by striking "paragraph (1)" and inserting "this subsection"; and

(C) by striking paragraph (1) and inserting the following new paragraphs:

"(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 215(a)(1)(C)(ii), 215(a)(1)(D), 215(b)(3)(A)(ii), 215(i)(1)(E), 215(i)(2)(C)(ii), 224(f)(2)(B), and 230(b)(2) (and 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term 'national average wage index' for any particular calendar year means, subject to regulations of the Secretary under paragraph (2), the average of the total wages for such particular calendar year.

"(2) The Secretary shall prescribe regulations under which the national average wage index for any calendar year shall be computed—

"(A) on the basis of amounts reported to the Secretary of the Treasury or his delegate for such year,

"(B) by disregarding the limitation on wages specified in subsection (a)(1),

"(C) with respect to calendar years after 1990, by incorporating deferred compensation amounts and factoring in for such years the rate of change from year to year in such amounts, in a manner consistent with the requirements of section 10208 of the Omnibus Budget Reconciliation Act of 1989, and

"(D) with respect to calendar years before 1978, in a manner consistent with the manner in which the average of the total wages for each of such calendar years was determined as provided by applicable law as in effect for such years.".

(2) CONFORMING AMENDMENTS.—

(A) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(B) Section 213(d)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B)) is amended by striking "deemed average total wages" and inserting "national average wage index", and by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1976,".

(C) Section 215(a)(1)(B)(ii) of such Act (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

(i) in subclause (I), by striking "deemed average total wages" and inserting "national average wage index"; and

(ii) in subclause (II), by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1977.".

(D) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "deemed average total wages" and inserting "national average wage index".

(E) Section 215(a)(1)(D) of such Act (42 U.S.C. 415(a)(1)(D)) is amended—

(i) by striking "after 1978";

(ii) by striking "and the average of the total wages (as described in subparagraph (B)(ii)(I))" and inserting "and the national average wage index (as defined in section 209(k)(1))"; and

(iii) by striking the last sentence.

(F) Section 215(b)(3)(A)(ii) of such Act (42 U.S.C. 415(b)(3)(A)(ii)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(G) Section 215(i)(1) of such Act (42 U.S.C. 415(i)(1)) is amended—

(i) in subparagraph (E), by striking "SSA average wage index" and inserting "national average wage index (as defined in section 209(k)(1))"; and

(ii) by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(H) Section 215(i)(2)(C)(ii) of such Act (42 U.S.C. 415(i)(1)(C)(ii)) is amended to read as follows:

"(ii) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year on or before November 1 of the current calendar year, based upon the most recent data then available. The Secretary shall include a statement of the fund ratio and the national average wage index (as defined in section 209(k)(1)) and a statement of the effect such ratio and the level of such index may have upon benefit increases under this subsection in any notification made under clause (i) and any determination published under subparagraph (D).".

(I) Section 224(f)(2) of such Act (42 U.S.C. 424a(f)(2)) is amended—

(i) in subparagraph (A), by adding "and" at the end;

(ii) by striking subparagraph (C); and

(iii) by striking subparagraph (B) and inserting the following:

"(B) the ratio of (i) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).".

(J) Section 230(b)(2) of such Act (42 U.S.C. 430(b)(2)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(K) Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking "deemed average total wage" and inserting "national average wage index".

SEC. 12017. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE.

(a) SOCIAL SECURITY ACCOUNT NUMBER INFORMATION.—Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as added by section 1735(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3791)) is amended—

(1) by inserting "(I)" after "(iii)"; and

(2) by striking "The Secretary of Agriculture shall restrict" and all that follows and inserting the following:

"(II) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by

such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

"(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

"(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.".

(b) EMPLOYER IDENTIFICATION NUMBER INFORMATION.—Subsection (f) of section 6109 of the Internal Revenue Code of 1986 (as added by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3792)) (relating to access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) SHARING OF INFORMATION AND SAFEGUARDS.—

"(A) SHARING OF INFORMATION.—The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

"(B) SAFEGUARDS.—The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.";

(2) in paragraph (3), by striking "by the Secretary of Agriculture pursuant to this subsection" and inserting "pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)", and by striking "social security account numbers" and inserting "employer identification numbers"; and

(3) in paragraph (4), by striking "by the Secretary of Agriculture pursuant to this subsection" and inserting "pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)".

SEC. 12018. PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.

(a) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

"(a) GENERAL RULE.—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

"(1) the words 'Department of the Treasury', or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

"(2) the titles 'Secretary of the Treasury' or 'Treasurer of the United States' or the title of any other officer or employee of the Department of the Treasury,

"(3) the abbreviations or initials of any entity referred to in paragraph (1),

"(4) the words 'United States Savings Bond' or the name of any other obligation issued by the Department of the Treasury,

"(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

"(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

"(b) TREATMENT OF DISCLAIMERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

"(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed $5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$25,000' for '$5,000'.

"(3) TIME LIMITATIONS.—

"(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

"(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to recover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

"(4) COORDINATION WITH SUBSECTION (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

"(d) CRIMINAL PENALTY.—

"(1) IN GENERAL.—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than $10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$50,000' for '$10,000'.

"(2) TIME LIMITATIONS.—No person may be prosecuted, tried, or punished under paragraph (1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

"(3) COORDINATION WITH SUBSECTION (c).—No criminal proceeding may be commenced under this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation."

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item:

"333. Prohibition of misuse of Department of the Treasury names, symbols, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) REPORT.—Not later than May 1, 1995, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.

SEC. 12019. AVAILABILITY AND USE OF DEATH INFORMATION UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) IMPROVEMENTS IN PROGRAM FOR USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION.—

(1) ELIMINATION OF STATE RESTRICTIONS ON USE OF INFORMATION.—Section 205(r)(1) of the Social Security Act (42 U.S.C. 405(r)(1)) is amended by adding at the end, after and below subparagraph (B), the following new sentence:

"Any contract entered into pursuant to subparagraph (A) shall not include any restriction on the use of information obtained by the Secretary pursuant to such contract, except to the extent that such use may be restricted under paragraph (6).".

(2) INFORMATION PROVIDED TO STATE AGENCIES FREE OF CHARGE.—

(A) IN GENERAL.—Section 205(r)(4) of such Act (42 U.S.C. 405(r)(4)) is amended to read as follows:

"(4)(A) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a State agency other than under this Act, the Secretary shall to the extent feasible provide such information free of charge through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals, if such arrangement does not conflict with the duties of the Secretary under paragraph (1).

"(B) The Secretary may enter into similar agreements with States to provide information free of charge for their use in programs wholly funded by the States if such arrangement does not conflict with the duties of the Secretary under paragraph (1).".

(B) CONFORMING AMENDMENT.—Section 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is amended by striking "or State".

(3) USE BY STATES OF SOCIAL SECURITY ACCOUNT NUMBERS CONTINGENT UPON PARTICIPATION IN PROGRAM.—Section 205(r)(2) of such Act (42 U.S.C. 405(r)(2)) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following new subparagraph:

"(B) Notwithstanding section 7(a)(2)(B) of the Privacy Act of 1974 and clauses (i) and (v) of subsection (c)(2)(C) of this section, any State which is not a party to a contract with the Secretary meeting the requirements of paragraph (1) (and any political subdivision thereof) may not utilize an individual's social security account number in the administration of any driver's license or motor vehicle registration law.".

(b) STUDY REGARDING IMPROVEMENTS IN GATHERING AND REPORTING OF DEATH INFORMATION.

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of possible improvements in the current methods of gathering and reporting death information by the Federal, State, and local governments which would result in more efficient and expeditious handling of such information.

(2) SPECIFIC MATTERS TO BE STUDIED.—In carrying out the study required under this subsection, the Secretary shall—

(A) ascertain the delays in the receipt of death information which are currently encountered by the Social Security Administration and other agencies in need of such information on a regular basis,

(B) analyze the causes of such delays,

(C) develop alternative options for improving Federal, State, and local agency cooperation in reducing such delays, and

(D) evaluate the costs and benefits associated with the options referred to in subparagraph (C).

(3) REPORT.—Not later than June 1, 1994, the Secretary shall submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted pursuant to this subsection, together with such administrative and legislative recommendations as the Secretary may consider appropriate.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) PROMOTION OF ENTRY INTO NEW CONTRACTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall take such actions as are necessary and appropriate to promote entry into contracts under section 205(r) of the Social Security Act which are in compliance with the requirements of the amendments made by subsection (a).

Subtitle B—Human Resources Amendments

SEC. 12201. TABLE OF CONTENTS.

The table of contents of this subtitle is as follows:

Subtitle B—Human Resources Amendments

Sec. 12201. Table of contents.
Sec. 12202. References.

CHAPTER 1—CHILD WELFARE

Sec. 12211. Independent living.

CHAPTER 2—CHILD SUPPORT ENFORCEMENT

Sec. 12221. State paternity establishment programs.
Sec. 12222. Enforcement of health insurance support.
Sec. 12223. Reports to credit bureaus on persons delinquent in child support payments.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

Sec. 12231. Fees for Federal administration of State supplementary payments.
Sec. 12232. Valuation of certain in-kind support and maintenance when there is a cost of living adjustment in benefits.

CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 12241. 50 percent Federal match of State administrative costs.

SEC. 12202. REFERENCES.

Except as otherwise expressly provided, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

CHAPTER 1—CHILD WELFARE

SEC. 12211. INDEPENDENT LIVING.

(a) TREATMENT OF ASSETS OF PARTICIPATING YOUTHS.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) Notwithstanding any other provision of this title, with respect to a child who is included in a program established by a State agency under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for purposes of determining eligibility for benefits under this title may be disregarded for the purpose of allowing the child to establish a household, pursue education, or otherwise complete the transition to independent living. The amount disregarded may not exceed an amount determined by the State agency to be reasonable for such purposes.".

(b) PERMANENT EXTENSION OF PROGRAM.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsection (a)(1), by striking the 3rd sentence;

(2) in subsection (c), by striking "of the fiscal years 1988 through 1992" and inserting "succeeding fiscal year";

(3) in subsection (e)(1)(A), by striking "each of the fiscal years 1987 through 1992" and inserting "fiscal year 1987 and any succeeding fiscal year";

(4) in subsection (e)(1)(B), by striking "fiscal years 1991 and 1992" and inserting "fiscal year 1991 and any succeeding fiscal year"; and

(5) in subsection (e)(1)(C)(ii), by striking "fiscal year 1992" and inserting "any succeeding fiscal year".

(c) EFFECTIVE DATES.—

(1) TREATMENT OF ASSETS OF PARTICIPATING YOUTHS.—The amendments made by subsection (a) shall apply to activities in fiscal years beginning on or after October 1, 1995.

(2) PERMANENT EXTENSION OF PROGRAM.—The amendments made by subsection (b) shall apply to activities engaged in on or after October 1, 1992.

CHAPTER 2—CHILD SUPPORT ENFORCEMENT

SEC. 12221. STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) PERFORMANCE STANDARDS.—Section 452(g) (42 U.S.C. 652(g)) is amended—

(1) in paragraph (1)—

(A) by striking "1991" and inserting "1994";

(B) by inserting "is based on reliable data and" before "equals or exceeds"; and

(C) by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) 75 percent;

"(B) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for the fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 3 percentage points; or

"(C) for a State with a paternity establishment percentage of less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 6 percentage points."; and

(2) in paragraph (2)—

(A) by striking "(or under all such plans)" each place such term appears;

(B) by inserting "or part E" after "under part A" each place such term appears;

(C) by amending subparagraph (B) to read as follows:

"(B) the term 'reliable data' means the most recent data available which are found by the Secretary to be reliable for purposes of this section.";

(D) by inserting "unless paternity is established for such child" after "the death of a parent";

(E) by striking "parent or" and inserting "parent,"; and

(F) by inserting ", or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interest of such child to do so" after "cooperate under section 402(a)(26)".

(b) STATE PLAN REQUIREMENTS.—

(1) REQUIRED PROCEDURES.—Section 466(a) (42 U.S.C. 666(a)) is amended—

(A) in paragraph (2)—

(i) by striking "at the option of the State,"; and

(ii) by inserting "and paternity establishment" after "support order issuance and enforcement";

(B) in paragraph (5), by adding at the end the following:

"(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must explain the rights and responsibilities of acknowledging paternity, and afford due process safeguards. Such procedures must include (i) a hospital-based program for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child, and (ii) the inclusion of signature lines on applications for official birth certificates which, once signed by the father and the mother, are considered a voluntary acknowledgment of paternity.

"(D) Procedures under which the voluntary acknowledgment of paternity of a child by an individual in the manner described in subparagraph (C)(ii) creates a rebuttable or, at the option of the State, conclusive presumption that the individual is the father of the child, and under which such a voluntary acknowledgment is admissible as evidence of paternity.

"(E) Procedures under which a voluntary acknowledgment of paternity in the manner described in subparagraph (C)(ii) must be

recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity.

"(F) Procedures requiring that (i) any objection to genetic testing results be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, and (ii) if no objection is made, the test results be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity of a child, upon genetic testing results indicating a threshold probability of the alleged father being the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing that process has been served on the defendant and any additional showing required by State law."; and

(C) by inserting after paragraph (10) the following:

"(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.".

(2) FURNISHING OF SOCIAL SECURITY NUMBERS.—

(A) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)), as amended by paragraph (1)(C) of this subsection, is amended by inserting after paragraph (11) the following:

"(12)(A) Procedures under which, in the administration of any law involving the issuance, reissuance, or amendment of a birth certificate, the State shall require each parent to furnish to the State, or any agency or political subdivision thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than 1 such number) issued to the parent, unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of the number.

"(B) Procedures under which any number furnished under subparagraph (A) shall be made available to the agency administering the State plan under this part, in accordance with Federal or State law or regulation.

"(C) Procedures under which—

"(i) any number furnished under subparagraph (A) shall not be recorded on the birth certificate; and

"(ii) any social security account number, obtained with respect to the issuance by the State of any birth certificate, shall not be used for other than child support purposes, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of the number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure.".

(B) CONFORMING AMENDMENTS.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended—

(i) by striking "(ii) In the administration of any law involving the issuance" and inserting "(ii) In the administration of any law involving the issuance, reissuance, or amendment"; and

(ii) by striking "any purpose other than for the enforcement of child support orders in effect in the State" and inserting "other than child support purposes".

(c) CONFORMING REPEAL.—Section 468 (42 U.S.C. 668) is hereby repealed.

(d) EFFECTIVE DATE.—The amendments and repeal made by this section shall become effective with respect to a State—

(1) on October 1, 1993, or, if later

(2) upon enactment by the legislature of the State of all laws required by such amendments,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 12222. ENFORCEMENT OF HEALTH INSURANCE SUPPORT.

(a) STATE PLAN REQUIREMENTS.—Section 454(a) (42 U.S.C. 654(a)) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by inserting after paragraph (24) the following:

"(25) provide assurances satisfactory to the Secretary that the State has in effect laws applicable to health insurers and insurance policies or programs subject to the laws of the State that—

"(A) prohibit insurers' consideration, in determining an individual's eligibility for or coverage under any such policy or program, of such individual's eligibility for or coverage under the plan of any State under title XIX;

"(B) provide that, where an individual assigns rights to any State in accordance with section 1912, that State is subrogated, to the extent of medical assistance furnished, to the individual's rights under any health insurance policy or program;

"(C) prohibit insurers from applying, to State agencies administering programs under title XIX and acting as agents or subrogees (for purposes of insurance policies or programs of such insurers) of individuals receiving medical assistance under such State programs, requirements (with respect to deadlines for filing claims or any other matters) different from requirements applicable to any other applicant, beneficiary, agent, or subrogee;

"(D) prohibit insurers from denying enrollment of a child under the health insurance coverage of the child's parent on grounds that—

"(i) the child does not reside with the parent, or

"(ii) the child was born out of wedlock;

"(E) in any case where a parent is required by court or administrative order to provide health insurance coverage for a child, require insurers, without regard to otherwise applicable enrollment season restrictions—

"(i) to permit such parent, upon application, to enroll in family coverage (if otherwise eligible and not already so enrolled), and to enroll such child under such family coverage, and

"(ii) where such a parent who is enrolled in family coverage fails to make application, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this part or title XIX; and

"(F) in any case where a child is covered under the health insurance of a noncustodial parent, require insurers—

"(i) to permit the custodial parent (or service provider, with the custodial parent's approval), or any State agency administering a program under title XIX, to submit claims for covered services without the approval of the noncustodial parent, and

"(ii) to make payment on claims submitted in accordance with clause (i) directly to the custodial parent, service provider, or State agency submitting such claim;

"(26) provide assurances satisfactory to the Secretary that the State has in effect laws requiring employers doing business in the State—

"(A) upon notice of a court or administrative order requiring an employee to provide health insurance coverage for the employee's child, and upon application by such employee (or, where such employee fails to make application, by the child's other parent or the State agency administering the program under this part or title XIX), to permit enrollment of such child at any time as a dependent of the employee under the employer's group health insurance;

"(B) to permit disenrollment from such group health insurance by such employee, or elimination of coverage of such child, only upon receipt of satisfactory evidence, in writing, that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the employee has enrolled or will enroll in alternative health insurance covering such child which will take effect immediately upon the effective date of such disenrollment; and

"(C) to withhold from such employee's compensation the employee's share (if any) of premiums for such health insurance, and to pay such share of premiums to the insurer;

"(27) provide assurances satisfactory to the Secretary that the State has in effect laws requiring the State agency to garnish the wages, salary, or other employment income of, and to withhold amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of medical services to an individual eligible for medical assistance under title XIX,

"(B) has received payment from a third party for the costs of medical services to such individual, and

"(C) has not used such payments to reimburse, as appropriate, either such individual or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under title XIX, but any claims for current or past-due child support shall take priority over any such claims for the costs of medical services.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) apply to calendar quarters beginning on or after April 1, 1994, except as provided in paragraph (2).

(2) EXTENSION FOR STATE LAW AMENDMENT.—In the case of a State plan under part D of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of

such session shall be deemed to be a separate regular session of the State legislature.

SEC. 12223. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting ", and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1994.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social Security Act, or October 1, 1995, whichever occurs earlier.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

SEC. 12231. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) IN GENERAL.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is amended—

(A) by inserting "(1)" after "(d)";

(B) by inserting ", plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)" before the period; and

(C) by adding after and below the end the following:

"(2)(A) The Secretary shall assess each State an administration fee in an amount equal to—

"(i) the number of supplementary payments made by the Secretary on behalf of the State under this section for any month in a fiscal year; multiplied by

"(ii) the applicable rate for the fiscal year.

"(B) As used in subparagraph (A), the term 'applicable rate' means—

"(i) for fiscal year 1994, $1.67;

"(ii) for fiscal year 1995, $3.33;

"(iii) for fiscal year 1996, $5.00; and

"(iv) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to criteria established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

"(C) All fees collected pursuant to this paragraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

"(3)(A) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this section.

"(B) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in subparagraph (A).

"(C) The additional services fee shall be payable in advance or by way of reimbursement.

"(4) All administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—Section 212(b)(3) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) by inserting "(A)" after "(3)";

(B) by inserting ", plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C)" before the period; and

(C) by adding after and below the end the following:

"(B)(i) The Secretary shall assess each State an administration fee in an amount equal to—

"(I) the number of supplementary payments made by the Secretary on behalf of the State under this subsection for any month in a fiscal year; multiplied by

"(II) the applicable rate for the fiscal year.

"(ii) As used in clause (i), the term 'applicable rate' means—

"(I) for fiscal year 1994, $1.67;

"(II) for fiscal year 1995, $3.33;

"(III) for fiscal year 1996, $5.00; and

"(IV) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to regulations established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

"(iii) All fees collected pursuant to this subparagraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

"(C)(i) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

"(ii) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).

"(iii) The additional services fee shall be payable in advance or by way of reimbursement.

"(D) All administration fees and additional services fees collected pursuant to this paragraph shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act or section 212(a) of Public Law 93-66 for any calendar month beginning after September 30, 1993, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.

SEC. 12232. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN BENEFITS.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking "and (5)" and inserting "(5), and (6)"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid for months after the calendar year 1993.

CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 12241. 50 PERCENT FEDERAL MATCH OF STATE ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended by striking "the sum of" and all that follows through the end of subparagraph (D) and inserting "50 percent of the total amounts expended during such quarter as the Secretary has found necessary for the proper and efficient administration of the State plan (including any amounts expended by the State to carry out initial evaluations under section 486(a)),".

(b) OPTIONAL USE OF CERTAIN PROCEDURES TO VERIFY IMMIGRATION STATUS OF AFDC APPLICANTS.—Section 1137(d) (42 U.S.C. 1320b-7(d)) is amended—

(1) in each of paragraphs (3) and (4)(B)(i), by inserting "(or, in the case of the program specified in subsection (b)(1), may)" after "shall"; and

(2) in paragraph (4), by inserting "(if required)" after "verified".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to payments made for calendar quarters beginning on or after April 1, 1994.

(2) DELAYED APPLICABILITY TO CERTAIN STATES.—

(A) IN GENERAL.—The Secretary of Health and Human Services may delay the applicability to a qualified State of the amendments made by subsection (a) until the 1st calendar quarter that begins after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this section.

(B) QUALIFIED STATE DEFINED.—As used in subparagraph (A), the term "qualified State" means a State that meets such criteria as the Secretary shall establish and apply uniformly, including whether the State legislature meets biennially and does not have a regular session scheduled in calendar year 1994.

Subtitle C—Medicare Program

SEC. 12400. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically pro-

vided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Sec. 12400. 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. 12401. Inpatient hospital services and hospice care.
Sec. 12402. Limits on per diem routine service costs for extended care services.

SUBCHAPTER B—OTHER PROVISIONS RELATING TO PART A

Sec. 12411. Wage index provisions.
Sec. 12412. Transition for hospital outlier thresholds.
Sec. 12413. Essential access community hospital (EACH) amendments.
Sec. 12414. Rural health transition grant program extension.
Sec. 12415. Regional referral center extension.
Sec. 12416. Medicare-dependent, small rural hospital payment extension.
Sec. 12417. Extension of rural hospital demonstration.
Sec. 12418. Hemophilia pass-through extension.
Sec. 12419. State hospital payment programs.
Sec. 12420. Psychology services in hospitals.
Sec. 12421. Graduate medical education payments in hospital-owned community health centers.
Sec. 12422. Treatment of certain military facilities.
Sec. 12423. Epilepsy DRG.
Sec. 12424. Skilled nursing facility wage index.
Sec. 12425. Hospice notification to beneficiaries.
Sec. 12426. Reduction in part A premium for certain individuals with 30 or more quarters of Social Security coverage.
Sec. 12427. Periodic updates to salary equivalency guidelines for physical therapy and respiratory therapy services.
Sec. 12428. Extension of deadline for application for geographic classification for certain reclassified hospitals.
Sec. 12429. Elimination of return on equity for proprietary skilled nursing facilities.
Sec. 12430. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

CHAPTER 2—PROVISIONS RELATING TO PART B

SUBCHAPTER A—ELIMINATION OF INFLATION UPDATE

Sec. 12431. Elimination of inflation update for physician and related professional services.
Sec. 12432. Elimination of cost-of-living adjustments for certain items and services.
Sec. 12433. Ambulatory surgical center services.
Sec. 12434. Other items and services under part B.

SUBCHAPTER B—PHYSICIANS' SERVICES

Sec. 12441. Retaining payment for actual anesthesia time.
Sec. 12442. Geographic cost of practice index refinements.
Sec. 12443. Relative values for pediatric services.
Sec. 12444. Antigens under physician fee schedule.
Sec. 12445. Administration of claims relating to physicians' services.
Sec. 12446. Miscellaneous and technical corrections.

SUBCHAPTER C—AMBULATORY SURGICAL CENTER SERVICES

Sec. 12451. Designation of certain hospitals as eye or eye and ear hospitals.
Sec. 12452. Technical amendments.

SUBCHAPTER D—OTHER PROVISIONS

Sec. 12461. Clarifying payments for medically directed certified registered nurse anesthetist services.
Sec. 12462. Extension of Alzheimer's disease demonstration projects.
Sec. 12463. Oral cancer drugs.
Sec. 12464. Payment for ostomy supplies and other supplies.
Sec. 12465. Coverage of services of speech-language pathologists and audiologists.
Sec. 12466. Extension of municipal health service demonstration projects.
Sec. 12467. Imposition of coinsurance on clinical diagnostic laboratory tests.
Sec. 12468. Miscellaneous and technical corrections.

SUBCHAPTER E—PART B PREMIUM

Sec. 12471. Part B premium.
Sec. 12472. Increase in medicare part B premium for individuals with high income.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

SUBCHAPTER A—ELIMINATION OF UPDATES

Sec. 12501. Elimination of cost-of-living update in per resident amounts for direct medical education.
Sec. 12502. Elimination of inflation update in cost limits for home health services.

SUBCHAPTER B—MEDICARE SECONDARY PAYER PROVISIONS

Sec. 12511. Extension of transfer of data.
Sec. 12512. 3-year extension of medicare secondary payer to disabled beneficiaries.
Sec. 12513. 3-year extension of 18-month rule for ESRD beneficiaries.
Sec. 12514. Medicare secondary payer reforms.

SUBCHAPTER C—MODIFICATION OF PROVISIONS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL

Sec. 12521. Modification of provisions relating to physician ownership and referral.

SUBCHAPTER D—OTHER PROVISIONS

Sec. 12531. Direct graduate medical education.
Sec. 12532. Immunosuppressive drug therapy.
Sec. 12533. Reduction in payments for erythropoietin.
Sec. 12534. Qualified medicare beneficiary outreach.
Sec. 12535. Extension of social health maintenance organization demonstrations.
Sec. 12536. Hospice notification to home health beneficiaries.
Sec. 12537. Interest payments.
Sec. 12538. Peer review organizations.
Sec. 12539. Health maintenance organizations.
Sec. 12540. Medicare administration budget process.
Sec. 12541. Other provisions.

CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 12551. Standards for medicare supplemental insurance policies.

CHAPTER 5—TREATMENT OF CERTAIN STATE HEALTH CARE PROGRAMS

Sec. 12561. Treatment of certain State health care programs.

CHAPTER 6—THIRD PARTY LIABILITY

Sec. 12571. Access to employment-based health insurance information.

CHAPTER 1—PROVISIONS RELATING TO PART A

Subchapter A—Elimination of Inflation Update for Services Provided Under Part A

SEC. 12401. INPATIENT HOSPITAL SERVICES AND HOSPICE CARE.

Section 1886(b)(3)(B)(iii) (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(1) by striking "(iii) For purposes of this subparagraph" and inserting "(iii)(I) Except as provided in subclause (II), for purposes of this subparagraph", and

(2) by adding at the end the following new subclause:

"(II) For purposes of this subparagraph and section 1814(i)(1)(C)(ii), the 'market basket percentage increase', with respect to cost reporting periods and discharges occurring in fiscal year 1994 or 1995, is 0 percent.".

SEC. 12402. LIMITS ON PER DIEM ROUTINE SERVICE COSTS FOR EXTENDED CARE SERVICES.

The Secretary of Health and Human Services shall not provide for any increase, on the basis of inflation or changes in the cost of goods and services, in the limits on per diem routine service costs for extended care services under section 1888 of the Social Security Act for cost reporting periods beginning during fiscal year 1994 or fiscal year 1995.

Subchapter B—Other Provisions Relating to Part A

SEC. 12411. WAGE INDEX PROVISIONS.

(a) WAGE INDEX HOLD HARMLESS PROTECTION.—

(1) IN GENERAL.—Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)) is amended by adding at the end the following new clause:

"(iv) The application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (1) may not result in a reduction in an urban area's wage index if—

"(I) the urban area has a wage index below the wage index for rural areas in the State in which it is located; or

"(II) the urban area is located in a State that is composed of a single urban area.".

(2) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the fiscal year 1992 or fiscal year 1993 standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring—

(A) on or after October 1, 1991, in the case of hospitals located in an urban area described in section 1886(d)(8)(C)(iv)(I) of the Social Security Act (as added by paragraph (1)); and

(B) on or after the date of the enactment of this Act, in the case of hospitals located in an urban area described in section 1886(d)(8)(C)(iv)(II) of the Social Security Act (as added by paragraph (1)).

(b) UPDATING STANDARDS FOR TREATING RURAL COUNTIES AS URBAN COUNTIES BASED ON RATES OF COMMUTATION.—

(1) IN GENERAL.—Section 1886(d)(8)(B) (42 U.S.C. 1395ww(d)(8)(B)) is amended—

(A) by striking "standards" each place it appears and inserting "standards most recently used", and

(B) by striking "published in the Federal Register on January 3, 1980".

(2) HOLD HARMLESS FOR COUNTIES CURRENTLY TREATED AS URBAN.—Any hospital that is treated as being located in an urban metropolitan statistical area pursuant to section 1886(d)(8)(B) of the Social Security Act as of September 30, 1992, shall continue to be so treated notwithstanding the amendments made by paragraph (1).

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective on October 1, 1993.

(c) USE OF OCCUPATIONAL MIX IN GUIDELINES.—

(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting "(to the extent the Secretary determines appropriate)" after "taking into account".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1989.

SEC. 12412. TRANSITION FOR HOSPITAL OUTLIER THRESHOLDS.

Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(1) in clause (i), by striking "The Secretary" and inserting "For discharges occurring during fiscal years ending on or before September 30, 1997, the Secretary"; and

(2) by adding at the end the following new clauses:

"(v) The Secretary shall provide that—

"(I) the day outlier percentage for fiscal year 1995 shall be 75 percent of the day outlier percentage for fiscal year 1994;

"(II) the day outlier percentage for fiscal year 1996 shall be 50 percent of the day outlier percentage for fiscal year 1994; and

"(III) the day outlier percentage for fiscal year 1997 shall be 25 percent of the day outlier percentage for fiscal year 1994.

"(vi) For purposes of this subparagraph, the term 'day outlier percentage' means, for a fiscal year, the percentage of the total additional payments made by the Secretary under this subparagraph for discharges in that fiscal year which are additional payments under clause (i).".

SEC. 12413. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1)) is amended by striking "7" and inserting "9".

(b) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located',

(II) by striking ", (ii)" and inserting "or (ii)",

(III) by striking "or (iii)" and all that follows through "section,", and

(IV) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i-4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(e) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect"; and

(B) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,".

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following:

"The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(f) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(g) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraphs (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1995".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 12414. RURAL HEALTH TRANSITION GRANT PROGRAM EXTENSION.

Section 4005(e)(9) of OBRA-1987 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of fiscal years 1993 through 1997".

SEC. 12415. REGIONAL REFERRAL CENTER EXTENSION.

(a) EXTENSION OF CLASSIFICATION THROUGH FISCAL YEAR 1994.—Effective on the date of the enactment of this Act, section 6003(d) of such Act (42 U.S.C. 1395ww note) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT FOR HOSPITALS LOSING CLASSIFICATION.—

(1) IN GENERAL.—In the case of an affected regional referral center (as described in paragraph (2)), the Secretary of Health and Human Services shall make a lump sum payment to the center equal to the difference between the aggregate payment made to the center under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (3) and the aggregate payment that would have been made to the center under such section if, during the period of applicability, the center was classified a regional referral center under section 1886(d)(5)(C) of such Act.

(2) AFFECTED CENTERS DESCRIBED.—In paragraph (1), an "affected regional referral center" is a hospital classified as regional referral center under section 1886(d)(5)(C) of the Social Security Act as of September 30, 1992, that was not classified as such a center after such date but would have been so classified if the reference in section 6003(d) of OBRA-1989 to "October 1, 1992," had been deemed a reference to "October 1, 1994,".

(3) PERIOD OF APPLICABILITY.—In paragraph (1), the "period of applicability" is the period that begins on October 1, 1992, and ends on the date of the enactment of this Act.

SEC. 12416. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) EXTENSION OF ADDITIONAL PAYMENTS.—Effective on the date of the enactment of this Act, section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) in clause (i) in the matter preceding subclause (I)—

(A) by inserting "(or portion thereof)" after "cost reporting period", and

(B) by striking "March 31, 1993," and all that follows and inserting the following: "September 30, 1994, in the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be equal to the sum of the amount determined under clause (ii) and the amount determined under paragraph (1)(A)(iii).";

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(3) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is

"(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii); and

"(II) for discharges occurring during any subsequent cost reporting period (or portion thereof), 50 percent of the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii).".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT.—

(1) IN GENERAL.—In the case of a hospital treated as a medicare dependent, small rural hospital under section 1886(d)(5)(G) of the Social Security Act, the Secretary of Health and Human Services shall make a lump sum payment to the hospital equal to the difference between the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2) and the aggregate payment that would have been made to the hospital under such section if, during the period of applicability, section 1886(d)(5)(G) of such Act had been applied as if—

(A) the reference in clause (i) to "March 31, 1993," had been deemed a reference to "September 30, 1994,"; and

(B) the amendments made by subsection (a) had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the "period of applicability" is, with respect to a hospital, the period that begins on the first day of the hospital's first 12-month cost reporting period that begins after April 1, 1992, and ends on the date of the enactment of this Act.

SEC. 12417. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA-1990 is amended by adding at the end the following new sentence: "The Secretary shall continue any such demonstration project until at least December 31, 1995.".

SEC. 12418. HEMOPHILIA PASS-THROUGH EXTENSION.

Effective as if included in the enactment of OBRA-1989, section 6011(d) of such Act is amended by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1994".

SEC. 12419. STATE HOSPITAL PAYMENT PROGRAMS.

In the case of a State hospital reimbursement system that meets the requirements of section 1814(b)(3) of the Social Security Act, no other provision of law shall be construed as preventing the system from providing that payment for services covered under the system be made on the basis of rates provided for under the system.

SEC. 12420. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and in-

serting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 12421. GRADUATE MEDICAL EDUCATION PAYMENTS IN HOSPITAL-OWNED COMMUNITY HEALTH CENTERS.

Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by inserting after "the hospital" the following: "or providing services at any entity receiving a grant under section 330 of the Public Health Service Act that is under the ownership or control of the hospital (if the hospital incurs all, or substantially all, of the costs of the services furnished to the hospital by such interns and residents)".

SEC. 12422. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any recoupment action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989, except to the extent that funds were obligated to the Uniformed Services Treatment Facilities program to fulfill such an action pursuant to title VI of the Department of Defense Appropriations Act, 1993.

(2) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) STUDY OF JOINT MEDICAL FACILITIES.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall conduct a study of the feasibility and desirability of establishing joint medical facilities among the Department of Defense, the Department of Veterans' Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facilities.

(2) REPORT.—Not later than October 1, 1993, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under paragraph (1).

SEC. 12423. EPILEPSY DRG.

(a) IN GENERAL.—The Secretary of Health and Human Services shall review the diagnosis-related groups established pursuant to section 1886(d)(4) of the Social Security Act that are assigned to discharges of patients with intractable epilepsy, including patients whose admissions involve intensive neurodiagnostic monitoring, and shall revise, for discharges occurring on or after October 1, 1994, the assignment of discharges to such groups as the Secretary considers appropriate to account for the resource requirements of such patients.

(b) CONSULTATION REQUIREMENTS.—In carrying out subsection (a), the Secretary shall consult with the Prospective Payment Assessment Commission and national organizations representing individuals with epilepsy or individuals and entities providing specialized medical services to such individuals related to the treatment of epilepsy.

SEC. 12424. SKILLED NURSING FACILITY WAGE INDEX.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) PROPAC REPORT.—The Prospective Payment Assessment Commission shall, by March 1, 1994, study and report to the Congress on the impact of applying routine per diem cost limits for skilled nursing facilities on a regional basis.

SEC. 12425. HOSPICE NOTIFICATION TO BENEFICIARIES.

(a) HOSPITALS.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(b) NURSING FACILITIES.—Section 1819(c)(1)(B) (42 U.S.C. 1395i-3(c)(1)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by inserting after clause (iii) the following new clause:

"(iv) inform each resident who is entitled to benefits under this title, orally and in writing at the time of admission to the facility, of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the facility to refer patients to hospice programs located outside such geographic area).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 12426. REDUCTION IN PART A PREMIUM FOR CERTAIN INDIVIDUALS WITH 30 OR MORE QUARTERS OF SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Section 1818(d) (42 U.S.C. 1395i-2(d)) is amended—

(1) in the second sentence of paragraph (2), by striking "Such amount" and inserting "Subject to paragraph (4), the amount of an individual's monthly premium under this section"; and

(2) by adding at the end the following new paragraph:

"(4)(A) In the case of an individual described in subparagraph (B), the monthly premium for a month shall be reduced by the applicable reduction percent specified in the following table:

"For a month in:	The applicable reduction percent is:
1994	25
1995	30
1996	35
1997	40
1998 or subsequent year	45

"(B) An individual described in this subparagraph with respect to a month is an individual who establishes to the satisfaction of the Secretary that, as of the last day of the previous month, the individual—

"(i) had at least 30 quarters of coverage under title II;

"(ii) was married (and had been married for the previous 1 year period) to an individual who had at least 30 quarters of coverage under such title;

"(iii) had been married to an individual for a period of at least 1 year (at the time of the individual's death) if at such time the individual had at least 30 quarters of coverage under such title; and

"(iv) is divorced from an individual and had been married to the individual for a period of at least 10 years (at the time of the divorce) if at such time the individual had at least 30 quarters of coverage under such title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to monthly premiums under section 1818 of the Social Security Act for months beginning with January 1, 1994.

SEC. 12427. PERIODIC UPDATES TO SALARY EQUIVALENCY GUIDELINES FOR PHYSICAL THERAPY AND RESPIRATORY THERAPY SERVICES.

(a) IN GENERAL.—Section 1861(v)(5) (42 U.S.C. 1395x(v)(5)) is amended by adding at the end the following new subparagraph:

"(C) Using the most recent available data, the Secretary shall update, not less often than every 3 years, the salary equivalency guidelines used under subparagraph (A) with respect to physical therapy and respiratory therapy services.".

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first update the salary equivalency guidelines, under the amendment made by subsection (a), by not later than December 31, 1993. Such updated guidelines shall apply to cost reporting periods beginning on or after July 1, 1993.

SEC. 12428. EXTENSION OF DEADLINE FOR APPLICATION FOR GEOGRAPHIC CLASSIFICATION FOR CERTAIN RECLASSIFIED HOSPITALS.

Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board requesting a change in geographic classification for fiscal year 1994 after the first day of fiscal year 1993 if—

(1) the hospital's geographic classification for fiscal year 1994 was changed from urban to rural as a result of the issuance of the Revised Statistical Definitions for Metropolitan Areas established by the Office of Management and Budget on December 28, 1992 (pursuant to OMB Bulletin No. 93-05); and

(2) the hospital submits the application not later than 60 days after the date of the enactment of this Act.

SEC. 12429. ELIMINATION OF RETURN ON EQUITY FOR PROPRIETARY SKILLED NURSING FACILITIES.

(a) REPEAL OF REQUIREMENT FOR RETURN ON EQUITY.—

(1) IN GENERAL.— Section 1861(v)(1)(B) (42 U.S.C. 1395x(v)(1)(B)) is amended to read as follows:

"(B) Such regulations in the case of extended care services shall not include provision for specific recognition of a return on equity capital.".

(2) CONFORMING AMENDMENTS.—(A) Section 1878(f)(2) (42 U.S.C. 1395oo(f)(2)) is amended by striking "the rate of return on equity capital established by regulation pursuant to section 1861(v)(1)(B) and in effect at the time" and inserting "the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for each of the months any part of which is included in the cost reporting period in which".

(B) Section 1881(b)(2)(C) (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking ", providing such rate" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to costs incurred after September 1993.

SEC. 12430. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is further amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

(b) TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "not later than" before "14 days".

(c) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "1990,," and inserting "1990,".

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking "such agency" and inserting "such agency's".

(3) Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking ", the sum of" and inserting "is equal to the sum of".

CHAPTER 2—PROVISIONS RELATING TO PART B

Subchapter A—Elimination of Inflation Update

SEC. 12431. ELIMINATION OF INFLATION UPDATE FOR PHYSICIAN AND RELATED PROFESSIONAL SERVICES.

(a) NO INCREASE IN INDEX.—Section 1848(d)(3)(A) (42 U.S.C. 1395w-4(d)(3)(A)) is amended—

(1) in clause (i), by striking "clause (iii)" and inserting "clauses (iii) and (iv)", and

(2) by adding at the end the following new clause:

"(iv) NO INCREASE IN INDEX FOR 1994 OR 1995.—In applying clause (i) for services furnished on or after January 1, 1994, the percentage increase in the appropriate update index for each of 1994 and 1995 shall be 0 per cent.".

(b) NO INCREASE IN MEI FOR 1994 AND 1995.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(vi) For purposes of this part for items and services furnished in 1994 or 1995, the percentage increase in the MEI is 0 percent.".

SEC. 12432. ELIMINATION OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN ITEMS AND SERVICES.

(a) CLINICAL LABORATORY SERVICES.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking "and" at the end of subclause (II),

(2) by striking the period at the end of subclause (III) and inserting ", and", and

(3) by adding at the end the following new subclause:

"(IV) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1994 and 1995 shall be 0 percent.".

(b) DURABLE MEDICAL EQUIPMENT.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "a subsequent year" and inserting "1993", and

(B) by striking "June of the previous year." and inserting "June 1992,"; and

(3) by adding at the end the following new subparagraphs:

"(C) for 1994 and 1995, no percentage change, and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(c) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (i), by striking "and";

(2) in clause (ii), by striking "a subsequent year" and inserting "1992 and 1993"; and

(3) by adding at the end the following new clauses:

"(iii) for 1994 and 1995, 0 percent, and

"(iv) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

(d) REASONABLE CHARGE LIMITS FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act during 1994 and 1995, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 12433. AMBULATORY SURGICAL CENTER SERVICES.

(a) ELIMINATION OF INFLATION UPDATE.—The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal year 1994 or for fiscal year 1995.

(b) CONFORMING AMENDMENT.—Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)), as added by section 12453(a)(2)(B), is amended by striking "fiscal year 1995" and inserting "fiscal year 1996".

SEC. 12434. OTHER ITEMS AND SERVICES UNDER PART B.

(a) RURAL HEALTH CLINIC SERVICES; FEDERALLY-QUALIFIED HEALTH CENTER SERVICES; COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—In determining the amount of payment made for rural health clinic services, Federally qualified health center services, or comprehensive outpatient rehabilitation facility services furnished under part B of title XVIII of the Social Security Act for services furnished on or after January 1, 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the applicable limits used to determine the costs which are reasonable and related to the cost of furnishing such services under section 1833(a)(3) of such Act, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

(b) DIALYSIS SERVICES.—In determining the amount of payment made for dialysis services furnished under part B of title XVIII of the Social Security Act on or after January 1, 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the payment amounts determined under section 1881(b)(2)(B) of such Act or the rates determined under section 1881(b)(7) of such Act, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

(c) OTHER PART B ITEMS AND SERVICES.—In determining the amount of payment made for an item or service furnished under part B of title XVIII of the Social Security Act on or after January 1, 1994, other than an item or service to which a preceding provision of (or amendment made by) this subchapter applies, the Secretary of Health and Human Services shall provide that any inflation update in the fee schedule amount for the item or service established under such part B of such title, or (if applicable) any applicable limit used to determine the actual charge, reasonable charge, or reasonable cost for the item or service under such part, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

Subchapter B—Physicians' Services

SEC. 12441. RETAINING PAYMENT FOR ACTUAL ANESTHESIA TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at the end the following: "The Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: "The Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take apply to services furnished on or after the date of the enactment of this Act.

SEC. 12442. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by striking "shall review" and inserting "shall, in consultation with appropriate representatives of physicians, review".

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) DEADLINE FOR INITIAL REVIEW AND REVISION.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995. Not later than April 1, 1994, the Secretary shall study and report to report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the construction of the geographic cost of practice index under section 1848(e)(1)(A)(i) of such Act.

(d) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than

malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

(e) DEVELOPMENT OF CRITERIA FOR USE IN DETERMINING PAYMENT LOCALITIES.—The Physician Payment Review Commission shall conduct a study to develop criteria that would be used to refine the fee schedule areas that are used within States, in applying geographic adjustment factors for computing payment amounts, under section 1848 of the Social Security Act. The Commission shall include a report on such study in its recommendations submitted to the Congress under section 1845(b) of such Act in 1994.

SEC. 12443. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1994, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians.

(2) REPORT.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 12444. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1995.

SEC. 12445. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 12446(f), is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 12446. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA-1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-4(a)(2)(D)(iii)) is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF CBRA-1990).—(1) Section 4107(c) of OBRA-1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA-1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) RECIPROCAL BILLING ARRANGEMENTS (SECTION 4110 OF OBRA-1990).—Section 1842(b)(6)(D) (42 U.S.C. 1395u(b)(6)(D)) is amended—

(1) by striking "visit services (including emergency visits and related services)" and inserting "physicians' services (and services furnished incident to such services)";

(2) by striking "on an occasional, reciprocal basis" and inserting "under an arrangement that is informal and reciprocal or involves per diem or other fee-for-time compensation for services";

(3) by striking "visit" in subclauses (i), (ii), and (iv); and

(4) in subclause (iii), by striking "the claim" and all that follows through the comma at the end and inserting "the claim meets the requirements of this clause for payment to the first physician".

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA-1990).—Section 4113 of OBRA-1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(h) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(i) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)) is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(i) by striking "apply to" and inserting "would otherwise apply to", and

(ii) by inserting before the period at the end "but for the application of section 1848(i)(3)".

(j) EFFECTIVE DATE.—The amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter C—Ambulatory Surgical Center Services

SEC. 12451. DESIGNATION OF CERTAIN HOSPITALS AS EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in subparagraph (B)(ii)—

(A) by striking "the last sentence of this clause" and inserting "paragraph (4)", and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In the case of a hospital that—

"(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

"(ii) receives more than 30 percent of its total revenues from outpatient services, and

"(iii) on October 1, 1987—

"(I) was an eye specialty hospital or an eye and ear specialty hospital, or

"(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (2)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

"(B) For purposes of this subparagraph (A)(iii)(II), the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1994.

SEC. 12452. TECHNICAL AMENDMENTS.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

(1) USE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1994, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(2) AUTOMATIC APPLICATION OF INFLATION ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(B) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1995), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(3) CONSULTATION REQUIREMENT.—The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—

(1) ESTABLISHMENT OF PROCESS FOR REVIEW OF AMOUNTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) FACTORS CONSIDERED.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) NOTICE AND COMMENT.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) TECHNICAL CORRECTION RELATING TO BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

(d) TECHNICAL CORRECTION RELATED TO CATARACT SURGERY.—Effective as if included in the enactment of OBRA–1990, section 4151(c)(3) of such Act is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

Subchapter D—Other Provisions

SEC. 12461. CLARIFYING PAYMENTS FOR MEDICALLY DIRECTED CERTIFIED REGISTERED NURSE ANESTHETIST SERVICES.

(a) IN GENERAL.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended to read as follows:

"(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished by a certified registered nurse anesthetist who is medically directed—

"(i) in a year after 1993 and before 1997, shall be $10.75, or

"(ii) in a subsequent calendar year, shall be the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 12462. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of OBRA–1986, as amended by section 4164(a)(2) of OBRA–1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f), —

(A) by striking "$55,000,000" and inserting "$58,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

SEC. 12463. ORAL CANCER DRUGS.

(a) NEW COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 12468(f)(8)(B), is amended—

(1) by striking "and" at the end of subparagraph (N);

(2) by adding "and" at the end of subparagraph (O); and

(3) by adding at the end the following new subparagraph:

"(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;".

(b) UNIFORM COVERAGE OF "OFF-LABEL" ANTICANCER DRUGS.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) For purposes of paragraph (1), the term 'drugs' also includes any drugs or biologicals used in an anticancer chemotherapeutic regimen for a medically accepted indication (as described in subparagraph (B)).

"(B) In subparagraph (A), the term 'medically accepted indication', with respect to the use of a drug, includes any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

"(i) the drug has been approved by the Food and Drug Administration, and

"(ii) the carrier involved determines, based upon guidance provided by the Secretary to carriers for determining medically accepted uses of drugs, that the use is medically accepted taking into account the uses of such drug which are—

"(I) included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopoeia-Drug Information; or

"(II) supported by clinical evidence in peer reviewed medical literature appearing in publications which have been specifically approved for purposes of this paragraph by the Secretary.".

(c) STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering under the medicare program the patient care costs for beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an institutional review board. The study shall include—

(A) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(B) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(C) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(D) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished on or after January 1, 1994.

SEC. 12464. PAYMENT FOR OSTOMY SUPPLIES AND OTHER SUPPLIES.

(a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, AND UROLOGICALS.—

(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(2) CONFORMING AMENDMENT.—Section 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is amended by striking "subparagraph (C)," and inserting "subparagraphs (C) and (E),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(b) SURGICAL DRESSINGS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(2) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 12468(e)(2), is amended—

(A) by striking "and" before "(O)", and

(B) by inserting before the semicolon at the end the following: ", and (P) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j);".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

SEC. 12465. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 12468(f)(8)(E), is amended by inserting after subsection (kk) the following new subsection:

"Speech-Language Pathology Services; Audiology Services

"(ll)(1) The term 'speech-language pathology services' means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

"(2) The term 'audiology services' means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law).

"(3) In this subsection:

"(A) The term 'qualified speech-language pathologist' means an individual with a master's or doctoral degree in speech-language pathology who has performed not less than 9 months of supervised full-time speech-language pathology services after obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of speech-language pathologists, has successfully completed a national clinical competency examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who has performed not less than 9 months of supervised full-time audiology services after obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as an audiologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of audiologists, has successfully completed a national clinical competency examination in audiology approved by the Secretary.".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) HOSPICE CARE.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking "therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 12466. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking "December 31, 1993" and inserting "December 31, 1997", and

(2) in the second sentence, by inserting after "beneficiary costs," the following: "costs to the medicaid program and other payers, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,".

SEC. 12467. IMPOSITION OF COINSURANCE ON CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1994.

SEC. 12468. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA–1990).—Section 1833(l)(4)(B)(ii)(VII) (42 U.S.C. 1395l(l)(4)(B)(ii)(VII)) is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 13951(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 13951(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter E—Part B Premium

SEC. 12471. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by inserting "and for each month in 1996 and 1997" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1998".

SEC. 12472. INCREASE IN MEDICARE PART B PREMIUM FOR INDIVIDUALS WITH HIGH INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"Sec. 59B. Medicare part B premium tax.

"SEC. 59B. MEDICARE PART B PREMIUM TAX.

"(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax for such taxable year equal to the aggregate of the Medicare part B premium taxes for each of the months during such year that such individual is covered by Medicare part B.

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

"(1) such individual is covered under Medicare part B for any month during such year, and

"(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

"(c) MEDICARE PART B PREMIUM TAX FOR MONTH.—

"(1) IN GENERAL.—The Medicare part B premium tax for any month is the amount equal to the excess of—

"(A) 150 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(b) of the Social Security Act, over

"(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(2) PHASEIN OF TAX.—If the modified adjusted gross income of the taxpayer for any taxable years exceeds the threshold amount by less than $50,000, the Medicare part B premium tax for any month during such taxable year shall be an amount which bears the same ratio to the amount determined under paragraph (1) (without regard to this paragraph) as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $100,000,

"(B) $125,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

"(4) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Medicare Part B Premiums For High-Income Individuals."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1993 in taxable years ending after December 31, 1993.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—Elimination of Updates

SEC. 12501. ELIMINATION OF COST-OF-LIVING UPDATE IN PER RESIDENT AMOUNTS FOR DIRECT MEDICAL EDUCATION.

Section 1886(h)(2)(D) (42 U.S.C. 1395ww(h)(2)(D)) is amended by inserting "(other than in the case of cost reporting periods beginning during fiscal year 1994 or fiscal year 1995)" after "updated".

SEC. 12502. ELIMINATION OF INFLATION UPDATE IN COST LIMITS FOR HOME HEALTH SERVICES.

The Secretary of Health and Human Services shall not provide for any increase, on the basis of inflation or changes in the cost of goods and services, in the per visit cost limits for home health services under section 1861(v)(1)(L) of the Social Security Act for cost reporting periods beginning during fiscal year 1994 or fiscal year 1995.

Subchapter B—Medicare Secondary Payer Provisions

SEC. 12511. EXTENSION OF TRANSFER OF DATA.

(a) EXTENSION OF DATA MATCH PROGRAM.—(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1995" and inserting "1998".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "1995" and inserting "1998",

(B) in clause (ii)(I), by striking "1994" and inserting "1997", and

(C) in clause (ii)(II), by striking "1995" and inserting "1998".

(b) SECONDARY PAYER EXEMPTION FOR MEMBERS OF RELIGIOUS ORDERS.—Effective as if included in the enactment of OBRA–1989, section 6202(e)(2) of such Act is amended by adding at the end the following: "Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date.".

(c) PERMITTING THE USE OF MINIMUM INCOME THRESHOLDS.—

(1) Section 6103(l)(12)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "section 3401(a))".

(2) The matter in section 6103(l)(12)(B)(ii) of such Code preceding subclause (I) is amended by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "wages".

(3) The heading to section 6103(l)(12) of such Code is amended by striking "TAXPAYER IDENTITY" and inserting "RETURN".

SEC. 12512. 3-YEAR EXTENSION OF MEDICARE SECONDARY PAYER TO DISABLED BENEFICIARIES.

Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "1995" and inserting "1998".

SEC. 12513. 3-YEAR EXTENSION OF 18-MONTH RULE FOR ESRD BENEFICIARIES.

Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended by striking "1996" and inserting "1999".

SEC. 12514. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than November 1, 1993, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(i) by striking "and" at the end of subparagraph (H); and

(ii) by inserting after subparagraph (H) the following new subparagraph:

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A))".

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(c) APPLICATION OF AGGREGATION RULES.—

(1) WORKING AGED.—Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended by adding at the end the following new clause:

"(vi) APPLICATION OF AGGREGATION RULES.—All employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subparagraph.".

(2) DISABLED INDIVIDUALS.—Section 5000(b)(2) of the Internal Revenue Code of 1986 (relating to large group health plans) is amended by adding at the end the following: "All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this paragraph.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

(d) APPLICATION OF EXCISE TAX TO FAILURE TO REIMBURSE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Section 5000(c) of the Internal Revenue Code of 1986 (relating to nonconforming group health plans) is amended by striking "of section 1862(b)(1)" and inserting "of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to demands for repayment issued after the date of the enactment of this Act.

(e) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended—

(A) by striking "on or before" and inserting "before", and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Effective as if included in the enactment of OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(l)(12)(D)(iii)" and inserting "6103(l)(12)(E)(iii)".

(4) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(5) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(6) Except as provided in paragraphs (2) and (3), the amendments made by this subsection shall be effective as if included in the enactment of OBRA–1990.

Subchapter C—Modification of Provisions Relating to Physician Ownership and Referral

SEC. 12521. MODIFICATION OF PROVISIONS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL.

(a) MULTIPLE LOCATIONS FOR GROUP PRACTICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C. 1395nn(b)(2)(A)(ii)(II)) is amended by striking "centralized provision" and inserting "provision of some or all".

(b) TREATMENT OF COMPENSATION ARRANGEMENTS.—

(1) RENTAL OF OFFICE SPACE AND EQUIPMENT.—Paragraph (1) of section 1877(e) (42

U.S.C. 1395nn(e)) is amended to read as follows:

"(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

"(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the aggregate space rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental,

"(iii) the lease provides for a term of rental or lease for at least one year,

"(iv) in the case of a lease that is intended to provide the lessee with access to the premises for periodic intervals of time, rather than on a full-time basis, the lease specifies exactly the schedule of such intervals, their length, and the rent for such intervals,

"(v) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the lease would be commercially reasonable even if no referrals were made between the parties, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental,

"(iii) the lease provides for a term of rental or lease of at least one year,

"(iv) in the case of a lease that is intended to provide the lessee with use of the equipment for periodic intervals of time, rather than on a full-time basis, the lease specifies exactly the schedule of such intervals, their length, and the rent for such intervals,

"(v) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the lease would be commercially reasonable even if no referrals were made between the parties, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Paragraph (2) of such section is amended—

(A) by striking "WITH HOSPITALS",

(B) by striking "An arrangement" and all that follows through "if" and inserting "Any amount paid by an employer to an employee who has a bona fide employment relationship with the employer for employment, or paid by a hospital pursuant to an arrangement with a physician (or immediate family member) for the provision of administrative services, if",

(C) in subparagraphs (A), (B), and (D), by striking "arrangement" and inserting "employment relationship or arrangement", and

(D) in subparagraph (C), by striking "to the hospital".

(3) ADDITIONAL EXCEPTIONS.—Such subsection is further amended by adding at the end the following new paragraphs:

"(7) PAYMENTS TO A PHYSICIAN FOR OTHER ITEMS OR SERVICES.—

"(A) IN GENERAL.—Payments made by an entity to a physician (or family member) who is not employed by the entity as compensation for services specified in subparagraph (B), if—

"(i) the compensation agreement is set out in writing and specifies the services to be provided by the parties, the compensation for each unit of service provided under the agreement, and the schedule for the provision of such services,

"(ii) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(iii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity, and

"(iv) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) SPECIFIED SERVICES.—For purposes of subparagraph (A), the services specified in this subparagraph are any of the following:

"(i) Consultative services that—

"(I) relate to test results that have been obtained that are outside established parameters, or are specifically requested by the referring physician on a specified patient,

"(II) are furnished by a physician other than the referring physician (or by another physician who is a member of the same group practice), and

"(III) for which the physician furnishes a written report for that patient.

"(ii) Interpretation of tissue pathology or Pap smear slides or the provision of other cytology services.

"(iii) Phlebotomy services for paternity or toxicology testing where the services are furnished by a physician other than the physician referring the individual for such testing (or by another physician who is a member of the same group practice).

"(iv) Employment-related health care services, including a payment by a self-insured employer for services rendered to employee applicants, employees, or their families under the terms of a health benefit plan.

"(v) Services as a clinical consultant to the entity as required for certification of the provider under section 353 of the Public Health Service Act.

"(vi) Services required by local, State, or Federal licensure, accreditation, or other health and safety provisions.

"(vii) Services billed in the name of a group practice provided by a physician under contract to the group practice for services not otherwise available directly through a physician who is a member of the group.

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory services, or

"(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value and are generally available to referrors and non-referrors alike on similar terms and conditions.

"(9) PAYMENTS FOR PATHOLOGY SERVICES OF A GROUP PRACTICE.—Payments made to a group practice for pathology services under an agreement if—

"(A) the agreement is set out in writing and specifies the services to be provided by the parties and the compensation for services provided under the agreement;

"(B) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

"(C) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(D) the compensation arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(c) TREATMENT OF GROUP PRACTICE LABORATORIES.—

(1) USE OF BILLING NUMBERS, ETC.—Section 1877 is amended—

(A) in subsection (b)(2)(B), by inserting "under a billing number assigned to the group practice" after "member",

(B) in subsection (h)(4)(B), by inserting "and under a billing number assigned to the group" after "in the name of the group", and

(C) in subsection (h)(4)(C), by striking "by members of the group".

(2) TREATMENT OF SERVICES UNDER ARRANGEMENTS BETWEEN HOSPITALS AND GROUP PRACTICES.—

(A) IN GENERAL.—Section 1877(h)(4) is amended—

(i) in subparagraph (B) (as amended by paragraph (1)(B)), by inserting "(or are billed in the name of a hospital for which the group provides clinical laboratory services pursuant to an arrangement that meets the requirements of subparagraph (B))" after "assigned to the group";

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(iii) by inserting "(A)" after ".—"; and

(iv) by adding at the end the following new subparagraph:

"(B) The requirements of this subparagraph, with respect to an arrangement for clinical laboratory services provided by the laboratory of a group and billed in the name of a hospital, are that—

"(i) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

"(ii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

"(iii) the laboratory provides substantially all of the clinical laboratory services to the hospital's patients;

"(iv) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement;

"(v) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

"(vi) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(vii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(B) CONFORMING AMENDMENT.—Section 1877(b)(2)(B) is amended by inserting "(or by

a hospital for which such a group practice provides clinical laboratory services pursuant to an arrangement that meets the requirements of subsection (h)(4)(B))" after "by a group practice of which such physician is a member".

(3) TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.—The last sentence of section 1877(h)(4)(A), as redesignated by paragraph (1)(A), is amended by inserting ", institution of higher education, or medical school" after "hospital".

(d) EXPANDING RURAL PROVIDER EXCEPTION TO COVER COMPENSATION ARRANGEMENTS.—

(1) IN GENERAL.—Section 1877(b) is further amended—

(A) by redesignating paragraph (5) as paragraph (7), and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) RURAL PROVIDERS.—In the case of clinical laboratory services if—

"(A) the laboratory furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

"(B) substantially all of the services furnished by the laboratory to individuals entitled to benefits under this title are furnished to such individuals who reside in such a rural area.".

(2) CONFORMING AMENDMENTS.—Section 1877(d) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(e) EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877 is amended—

(A) in subsection (b), as amended by subsection (d)(1), by inserting after paragraph (5) the following new paragraph:

"(6) SHARED FACILITY SERVICES.—

"(A) IN GENERAL.—In the case of shared facility services of a shared facility—

"(i) that are furnished—

"(I) personally by the referring physician who is a shared facility physician or personally by an individual supervised by such a physician or by another shared facility physician and employed under the shared facility arrangement,

"(II) by a shared facility in a building in which the referring physician furnishes physician's services unrelated to the furnishing of shared facility services, and

"(III) to a patient of a shared facility physician; and

"(ii) that are billed by the referring physician or by an entity that is wholly owned by such physician.

"(B) LIMITATION.—The exception under this paragraph shall only apply to a shared facility only if the facility and the shared facility arrangement were established as of June 26, 1992."; and

(B) in subsection (h), by adding at the end the following new paragraph:

"(8) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY SERVICES.—The term 'shared facility services' means, with respect to a shared facility, clinical laboratory services furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(2) GAO STUDY OF SHARED FACILITY ARRANGEMENTS.—

(A) IN GENERAL.—The Comptroller General shall analyze the effect on the utilization of health services of shared facility arrangements for which an exception is provided under the amendments made by paragraph (1). The analysis shall include a review of the effect of the limitation, described in section 1877(b)(6)(B) of the Social Security Act (as added by paragraph (1)), with respect to such exception and on the availability of services (including hematology services).

(B) REPORT.—Not later than January 1, 1994, the Comptroller General shall submit a report to Congress on the analysis conducted under subparagraph (A). The report shall include recommendations with respect to changing the limitation.

(f) EXEMPTION OF COMPENSATION ARRANGEMENTS INVOLVING CERTAIN TYPES OF REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) by striking subparagraph (B);

(2) in subparagraph (A), by inserting before the period the following: "(other than an arrangement involving only remuneration described in subparagraph (B))"; and

(3) by adding at the end the following new subparagraph:

"(B) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

"(i) The forgiveness of amounts owed for inaccurate tests, mistakenly performed tests, or the correction of minor billing errors.

"(ii) The provision of items, devices, or supplies of minor value that are used to—

"(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

"(II) communicate the results of tests for such entity.

"(iii) The furnishing by an entity of laboratory services to a group practice affiliated with the entity, if the entity provides all or substantially all of the clinical laboratory services of the group practice.".

(g) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in the fourth sentence of subsection (f)—

(A) by striking "provided" and inserting "furnished", and

(B) by striking "provides" and inserting "furnish";

(2) in the fifth sentence of subsection (f)—

(A) by striking "providing" each place it appears and inserting "furnishing",

(B) by striking "with respect to the providers" and inserting "with respect to the entities", and

(C) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services"; and

(3) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to referrals made on or after January 1, 1992.

Subchapter D—Other Provisions

SEC. 12531. DIRECT GRADUATE MEDICAL EDUCATION.

(a) ADJUSTMENT IN GME BASE-YEAR COSTS OF FEDERAL INSURANCE CONTRIBUTIONS ACT.—

(1) IN GENERAL.—In determining the amount of payment to be made under section 1886(h) of the Social Security Act in the case of a hospital described in paragraph (2) for cost reporting periods beginning on or after October 1, 1992, the Secretary of Health and Human Services shall redetermine the approved FTE resident amount to reflect the amount that would have been paid the hospital if, during the hospital's base cost reporting period, the hospital had been liable for FICA taxes or for contributions to the retirement system of a State, a political subdivision of a State, or an instrumentality of such a State or political subdivision with respect to interns and residents in its medical residency training program.

(2) HOSPITALS AFFECTED.—A hospital described in this paragraph is a hospital that did not pay FICA taxes with respect to interns and residents in its medical residency training program during the hospital's base cost reporting period, but is required to pay FICA taxes or make contributions to a retirement system described in paragraph (1) with respect to such interns and residents because of the amendments made by section 11332(b) of OBRA-1990.

(3) DEFINITIONS.—In this subsection:

(A) The "base cost reporting period" for a hospital is the hospital's cost reporting period that began during fiscal year 1984.

(B) The term "FICA taxes" means, with respect to a hospital, the taxes under section 3111 of the Internal Revenue Code of 1986.

(b) PUBLICLY-FUNDED FAMILY PRACTICE RESIDENCY PROGRAMS.—

(1) IN GENERAL.—Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)) is amended by adding at the end the following new subparagraph:

"(I) ADJUSTMENTS FOR CERTAIN FAMILY PRACTICE RESIDENCY PROGRAMS.—

"(i) IN GENERAL.—In the case of an approved medical residency training program (meeting the requirements of clause (ii)) of a hospital which received payments from the United States, a State, or a political subdivision of a State or an instrumentality of such a State or political subdivision (other than payments under this title or a State plan under title XIX) for the program during the cost reporting period that began during fiscal year 1984, the Secretary shall—

"(I) provide for an average amount under paragraph (2)(A) that takes into account the Secretary's estimate of the amount that would have been recognized as reasonable under this title if the hospital had not received such payments, and

"(II) reduce the payment amount otherwise provided under this subsection in an amount equal to the proportion of such program payments during the cost reporting period involved that is allocable to this title.

"(ii) ADDITIONAL REQUIREMENTS.—A hospital's approved medical residency program meets the requirements of this clause if—

"(I) the program is limited to training for family and community medicine;

"(II) the program is the only approved medical residency program of the hospital; and

"(III) the average amount determined under paragraph (2)(A) for the hospital (as

determined without regard to the increase in such amount described in clause (i)(I)) does not exceed $10,000.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments under section 1886(h) of the Social Security Act for cost reporting periods beginning on or after October 1, 1990.

(c) PREVENTIVE CARE RESIDENCIES.—

(1) ELIGIBILITY OF PREVENTIVE CARE RESIDENCY PROGRAMS FOR EXPANDED INITIAL RESIDENCY PERIODS.—Section 1886(h)(5)(F)(ii) (42 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting after "fellowship program" the following: "or a preventive care residency or fellowship program".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 12532. IMMUNOSUPPRESSIVE DRUG THERAPY.

Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "title, within" and all that follows and inserting the following: "title, but only in the case of drugs furnished—

"(i) before 1994, within 12 months after the date of the transplant procedure,

"(ii) during 1994, within 18 months after the date of the transplant procedure,

"(iii) during 1995, within 24 months after the date of the transplant procedure,

"(iv) during 1996, within 30 months after the date of the transplant procedure, and

"(v) during any year after 1997, within 36 months after the date of the transplant procedure;".

SEC. 12533. REDUCTION IN PAYMENTS FOR ERYTHROPOIETIN.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(1) by striking "1991" and inserting "1994"; and

(2) by striking "$11" and inserting "$10".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to erythropoietin furnished on or after January 1, 1994.

SEC. 12534. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 12535. EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION DEMONSTRATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA–1987, as amended by section 4207(b)(4)(B) of OBRA–1990, is amended—

(1) in paragraph (1) by striking "December 31, 1995" and inserting "December 31, 1997"; and

(2) in paragraph (4) by striking "March 31, 1996" and inserting "March 31, 1998".

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(1) in the last sentence of subsection (a) by striking "12 months" and inserting "36 months"; and

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or".

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA–1990.

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(5) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(6) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(8) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–90.

SEC. 12536. HOSPICE NOTIFICATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

"(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 12537. INTEREST PAYMENTS.

(a) IN GENERAL.—Sections 1816(c)(2)(B)(ii)(IV) and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to claims received in the 12-month period beginning October 1, 1992, by substituting "30 calendar days" for "24 calendar days" and "17 calendar days".

(b) EFFECTIVE DATE.—Subsection (a) shall be in effect during the period that begins on the date of the enactment of this Act and ends on September 30, 1993.

SEC. 12538. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c–13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c–3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "basis," and inserting "basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c-3(a)(9)(B)) is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

(B) The amendment made by paragraph (2) (relating to the requirement on reporting of information to State licensing boards) shall take effect on the date of the enactment of this Act.

SEC. 12539. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYER PROVISIONS.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: "In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS .—Section 4204(b) of OBRA-1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than October 1, 1993, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1995 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA-1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA-1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA-1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA-1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

SEC. 12540. MEDICARE ADMINISTRATION BUDGET PROCESS.

(a) ADJUSTMENTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) MEDICARE ADMINISTRATIVE COSTS.—To the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of $1,526,000,000 for new budget authority) for the administration of the Medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

"(i) for fiscal year 1994, $198,000,000 in new budget authority and $198,000,000 in outlays; and

"(ii) for fiscal year 1995, $220,000,000 in new budget authority and $220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.".

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)".

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)"; and

(B) in paragraph (2), by inserting "251(b)(2)(E)," after "251(b)(2)(D),".

SEC. 12541. OTHER PROVISIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTION.—Section 4202 of OBRA-1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels);

(3) in subsection (c)(1)(A), by striking "skilled"; and

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 1833 (42 U.S.C. 13951) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by section 12479(f)(8)(B)(iii)(II) of this title, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(P)".

(5) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(6)(A) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after "such review.".

(B) Section 4207(a)(4) of OBRA-1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA-1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 12551. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA-1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "and the statement" and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking "65 years of age or older",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the full amount of medicare cost-sharing as described in subparagraphs (B), (C), and (D) of section 1905(p)(3) for such individual.".

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.".

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5)(A) are amended by striking "of the Social Security Act".

(5) The second subsection (b) of section 4354 of OBRA–1990 (relating to effective date) is amended by redesignating such subsection as subsection (c).

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 12561(m)(4) of the Omnibus Budget Reconciliation Act of 1993.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 12561(m)(4) of the Omnibus Budget Reconciliation Act of 1993.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disllowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of such Act.".

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1994, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide", and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

(2) by adding at the end the following new subparagraph:

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1994, and who were not covered under such section before January 1, 1994, the 6-month period specified in that section shall begin January 1, 1994).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its 1991 NAIC Model

Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1994 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

CHAPTER 5—TREATMENT OF CERTAIN STATE HEALTH CARE PROGRAMS

SEC. 12561. TREATMENT OF CERTAIN STATE HEALTH CARE PROGRAMS.

Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§393–1 through 393–51).

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefits plans.

"(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after October 5, 1992—

"(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or

"(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,

subparagraph (A) shall not apply with respect to the application of such amendment to such Act after the date of such notification.".

CHAPTER 6—THIRD PARTY LIABILITY

SEC. 12571. ACCESS TO EMPLOYMENT-BASED HEALTH INSURANCE INFORMATION.

(a) REPORTING OF GROUP HEALTH PLAN INFORMATION.—Section 6051(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of paragraph (8),

(2) by striking the period at the end of paragraph (9) and inserting ", and", and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) whether a group health plan (as defined in section 6103(l)(12)(F)(ii)) is available to the employee and the plan coverage (single or family) elected by such employee (if any).".

(b) DISCLOSURES OF TAX RETURN INFORMATION.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended—

(1) by amending the heading to read as follows: "DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR PURPOSES OF IDENTIFYING HEALTH INSURANCE COVERAGE OF CERTAIN INDIVIDUALS AND SPOUSES.—";

(2) in subparagraph (A)—

(A) by striking "Commissioner of Social Security" and inserting "Director of the Third Party Liability Clearinghouse pursuant to section 1144(c) of the Social Security Act",

(B) by striking "Commissioner" the second place it appears and inserting "Commissioner of Social Security",

(C) by striking "medicare beneficiary" and inserting "individual", and

(D) by striking "Commissioner" the third place it appears and inserting "Director";

(3) in subparagraph (B)—

(A) by striking "medicare beneficiary" each place it appears and inserting "individual";

(B) in the matter preceding clause (i)—

(i) by striking "Administrator of the Health Care Financing Administration" and inserting "Director of the Third Party Liability Clearinghouse",

(ii) by striking "Administrator" the second place it appears and inserting "Director", and

(iii) by inserting before the colon the following: "with respect to the individuals (and spouses) specified in subparagraph (A)";

(C) by amending clause (i) to read as follows:

"(i) For each such individual who is identified as having received wages (as defined in section 3401(a)) from, and as having available coverage under a group health plan of, an employer in a previous year—

"(I) the name and TIN of the individual,

"(II) the name, address, and TIN of the employer, and whether such employer is a qualified employer, and

"(III) the information reported under section 6051(a)(10).";

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by striking "a qualified employer" and inserting ", and as having available coverage under a group health plan of, an employer",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting a comma, and

(iv) by inserting after subclause (II) the following:

"(III) the name, address, and TIN of the spouse's employer, and whether such employer is a qualified employer, and

"(IV) the information reported under section 6051(a)(10) with respect to the spouse."; and

(E) by striking clause (iii);

(5) in subparagraph (C)—

(A) in the matter preceding clause (i)—

(i) in the heading, by striking "Health Care Financing Administration" and inserting "Third Party Liability Clearinghouse", and

(ii) by striking "Administrator of the Health Care Financing Administration may disclose" and inserting "Director of the Third Party Liability Clearinghouse may (subject to the provisions of subparagraph (E)) disclose",

(B) in clause (i), by striking "qualified employer" and inserting "employer",

(C) by amending clause (ii) to read as follows:

"(ii) to the administrator of a program specified in section 1144(b)(2) of the Social Security Act, to the extent provided in such section 1144, and",

(D) by redesignating clause (iii) as clause (iv),

(E) by inserting after clause (ii) the following new clause:

"(iii) to any person specified in section 1144(e)(2), information in the data bank established pursuant to such section 1144(e), for the purposes specified in such section, and", and

(F) in clause (iv), as so redesignated, by striking "Administrator" each place it appears and inserting "Director";

(6) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) DISCLOSURE BY CERTAIN PROGRAMS TO GROUP HEALTH PLANS.—The administrator of a program specified in section 1144(b)(2) of the Social Security Act may (subject to the provisions of subparagraph (E)) disclose information concerning an employee or spouse disclosed to the Director of the Third Party Liability Clearinghouse pursuant to subparagraph (B) and redisclosed to such administrator pursuant to subparagraph (D)—

"(i) to any group health plan which provides or provided coverage to such employee or spouse, and

"(ii) to any agent of such administrator, for purposes of identifying, or collecting on claims under, coverage of such employee or spouse under such group health plan.";

(7) in subparagraph (E)(i), as redesignated by paragraph (6), by striking "medicare beneficiary" and inserting "individual"; and

(8) in subparagraph (F), as redesignated by paragraph (6), by striking clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(c) HEALTH INSURANCE CLEARINGHOUSE.—

(1) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"THIRD PARTY LIABILITY CLEARINGHOUSE

"SEC. 1144. (a)(1) ESTABLISHMENT OF CLEARINGHOUSE.—The Secretary shall establish and operate a Third Party Liability Clearinghouse (in this section referred to as the 'Clearinghouse') for the purpose of identifying third parties responsible for payment for health care items and services furnished (or available) to beneficiaries of certain Federal and federally assisted programs, and for related purposes.

"(2) DIRECTOR.—The Clearinghouse established pursuant to paragraph (1) shall be headed by a Director (in this section referred to as the 'Director').

"(b) PROGRAM ADMINISTRATORS ENTITLED TO INFORMATION ON THIRD PART LIABILITIES.—

"(1) IN GENERAL.—Each person administering a program specified in paragraph (2) shall be entitled (subject to subsection (h)), upon written request to the Director in such form and manner and at such times as the Director may require, specifying names and tax identification numbers (TINs) of individuals who are—

"(A) program beneficiaries (in the case of programs specified in paragraph (2)(A)), or

"(B) parents of dependent children (in the case of programs specified in paragraph (2)(B)),

to obtain information in accordance with this section concerning employment and group health coverage of such individuals and their spouses.

"(2) PROGRAMS SPECIFIED.—The programs whose administrators are entitled to obtain the information specified in paragraph (1) in accordance with this section are—

"(A) all programs administered by the Federal Government, or by a State or local government or any other entity with Federal financial assistance, whose primary purpose is to provide (or make payment for) health care items and services to individuals, and

"(B) the Federal Parent Locator Service established pursuant to section 453, and State agencies administering plans for child and spousal support pursuant to section 454.

"(c) DATA MATCHING PROGRAM.—

"(1) REQUEST BY DIRECTOR.—The Director shall, at such intervals as he finds appropriate, transmit to the Secretary of the Treasury the names and TINs of individuals with respect to whom a request has been made pursuant to subsection (b), and request that the Secretary disclose to the Commissioner of Social Security the information described in section 6103(l)(12)(A) of the Internal Revenue Code of 1986 (concerning names and TINs of spouses of such individuals).

"(2) INFORMATION FROM COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall disclose to the Director, in accordance with section 6103(l)(12)(B) of the Internal Revenue Code of 1986, information concerning employment and health insurance with respect to such individuals and spouses.

"(3) INFORMATION FROM EMPLOYERS.—The Director shall—

"(A) request, from the employer of each individual (including each spouse) with respect to whom information was received from the Commissioner of Social Security pursuant to paragraph (2), specific information concerning coverage of such individual under the employer's group health plan (including the period and nature of the coverage, and the name, address, and identifying number of the plan), and

"(B) furnish the information received in response to such request with respect to an individual (or such individual's spouse) to the person or persons requesting such information pursuant to subsection (b).

"(d) REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION.—

"(1) IN GENERAL.—An employer shall furnish to the Director the information requested pursuant to subsection (c)(3) within 30 days after receipt of such a request.

"(2) SUNSET ON REQUIREMENT.—Paragraph (1) shall not apply to inquiries made after September 30, 1998.

"(3) CIVIL MONEY PENALTY FOR FAILURE TO COOPERATE.—

"(A) IN GENERAL.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate response to a request for information pursuant to subsection (c)(3) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual with respect to which such a request is made.

"(B) ENFORCEMENT AUTHORITY FOR HHS PROGRAMS.—In cases of failure to respond to the Director in accordance with paragraph (1) to inquiries relating to requests pursuant to subsection (b) by persons administering programs of, or financially assisted by, the Department of Health and Human Services, the provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under subparagraph (A) in the same manner as such provisions apply to penalties or proceedings under section 1128A(a).

"(e) DATA BANK.—

"(1) MAINTENANCE OF INFORMATION.—The Clearinghouse shall maintain a data bank, containing information on individuals obtained pursuant to this section and to section 6103(l)(12) of the Internal Revenue Code of 1986. Individual information in the data bank shall be retained for not less than one year after the date the information was obtained.

"(2) DISCLOSURE OF INFORMATION IN DATA BANK.—The Administrator is authorized (subject to the restriction in section 6103(l)(12)(E)(i) of the Internal Revenue Code of 1986) to disclose any information in the data bank established pursuant to paragraph (1) with respect to an individual (or an individual's spouse)—

"(A) to the Commissioner of Social Security, the Secretary of the Treasury, officials administering programs specified in subsection (b)(2), employers, and insurers, to the extent necessary to assist such officials to administer such programs;

"(B) to Federal and State law enforcement officials responsible for enforcement of civil or criminal laws, in connection with investigations or administrative or judicial law enforcement proceedings relating to a program specified in subsection (b)(2); and

"(C) for research or statistical purposes.

"(f) COLLECTIONS FROM THIRD PARTIES.—The Clearinghouse is authorized, upon request by a person administering a Federal health care program, to assist in the collection of amounts due from liable third parties to reimburse costs incurred by such program for health care items and services, through methods including—

"(1) use of contractors reimbursed on a contingency fee basis, and

"(2) judicial and administrative processes, in cooperation with program official and the Attorney General, as appropriate.

"(g) EVALUATION RESPONSIBILITIES.—The Clearinghouse shall evaluate methods for improving—

"(1) procedures for the collection, management, and appropriate disclosure of health care coverage information,

"(2) Federal laws and policies concerning third party liability for medical care, and

"(3) State requirements for medical support of dependent children.

"(h) FEES FOR CLEARINGHOUSE SERVICES.—The Clearinghouse shall establish fees for services to programs specified in subsection (b)(2) under subsections (c) and (f) designed to cover the full costs to the Clearinghouse of providing such services. Clearinghouse services under such subsections (c) and (f) shall be available to such programs subject to payment of such fees.

"(i) USE OF CONTRACTORS.—The responsibilities of the Clearinghouse may be carried out directly or (except for the responsibilities under subsections (b), (c)(1), and (c)(2)) by contract.

"(j) DEFINITIONS.—For purposes of this section, the terms 'employer' and 'group health plan' have the meanings given them in section 6103(l)(12)(F) of the Internal Revenue Code of 1986.".

(d) CONFORMING AMENDMENTS.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking "Secretary of the Treasury" and inserting "Administrator of the Health Care Financing Administration";

(B) by striking "(as defined in section 6103(l)(12) of the Internal Revenue Code of 1986)" and inserting "(as defined in clause (iii)"; and

(C) by striking "and request" and all that follows and inserting a period;

(2) in subparagraph (A)(ii)—

(A) by striking "the Commissioner of the Social Security Administration and all that follows and inserting "the Director of the Third Party Liability Clearinghouse to obtain and disclose to the Administrator, pursuant to section 1144(c) and to subparagraph (C) of section 6103(l)(12) of the Internal Revenue Code of 1986, the information described in subparagraph (B) of such section 6103(l)(12).''; and

(B) by inserting ", pursuant to section 1144(c)," after "disclose to the Administrator";

(3) in subparagraph (A), by adding at the end the following new clause:

"(iii) MEDICARE BENEFICIARY.—For purposes of this paragraph, the term 'medicare beneficiary' means an individual entitled to benefits under part A or enrolled under part B, but does not include such an individual enrolled in part A under section 1818.''; and

(4) by striking subparagraph (C).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect April 1, 1995.

Subtitle D—Customs and Trade Provisions

SEC. 12601. EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1998".

SEC. 12602. EXTENSION OF, AND AUTHORIZATION OF APPROPRIATIONS FOR, THE WORKER TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION.—Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding 2271) is amended—

(1) by striking out "No" and all that follows thereafter down through "chapter 2, no" in subsection (b) and inserting "No"; and

(2) by adding at the end the following new subsection:

"(c) No assistance, vouchers, allowances, or other payments may be provided under chapter 2 after September 30, 1996.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "and 1993," and inserting "1993, 1994, 1995, and 1996,".

SEC. 12603. EXTENSION OF URUGUAY ROUND TRADE AGREEMENT NEGOTIATING AND PROCLAMATION AUTHORITY AND OF "FAST TRACK" PROCEDURES TO IMPLEMENTING LEGISLATION.

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) is amended by inserting at the end the following new subsection:

"(e) SPECIAL PROVISIONS REGARDING URUGUAY ROUND TRADE NEGOTIATIONS.—

"(1) IN GENERAL.—Notwithstanding the time limitations in subsections (a) and (b), if the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade has not resulted in trade agreements by May 31, 1993, the President may, during the period after May 31, 1993, and before April 16, 1994, enter into, under subsections (a) and (b), trade agreements resulting from such negotiations.

"(2) APPLICATION OF TARIFF PROCLAMATION AUTHORITY.—No proclamation under subsection (a) to carry out the provisions regarding tariff barriers of a trade agreement that is entered into pursuant to paragraph (1) may take effect before the effective date of a bill that implements the provisions regarding nontariff barriers of a trade agreement that is entered into under such paragraph.

"(3) APPLICATION OF IMPLEMENTING AND 'FAST TRACK' PROCEDURES.—Section 1103 applies to any trade agreement negotiated under subsection (b) pursuant to paragraph (1), except that—

"(A) in applying subsection (a)(1)(A) of section 1103 to any such agreement, the phrase 'at least 120 calendar days before the day on which he enters into the trade agreement (but not later than December 15, 1993),' shall be substituted for the phrase 'at least 90 calendar days before the day on which he enters into the trade agreement; and

"(B) no provision of subsection (b) of section 1103 other than paragraph (1)(A) applies to any such agreement and in applying such paragraph, 'April 16, 1994;' shall be substituted for 'June 1, 1991;'.

"(4) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement provided for under paragraph (1) shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 1103(a)(1)(A) of his intention to enter into the agreement (but before January 15, 1994).".

SEC. 12606. REPEAL OF EAST-WEST TRADE STATISTICS MONITORING SYSTEM.

(a) REPEAL.—Section 410 of the Trade Act of 1974 (19 U.S.C. 2440) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for such Act of 1974 is amended by striking out the following:

"Sec. 410. East-West Trade Statistics Monitoring System.".

TITLE XIII—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

SEC. 13000. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Employer Reversions of Excess Plan Assets

SEC. 13001. EMPLOYER REVERSIONS OF EXCESS PLAN ASSETS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart F—Certain Reversions of Excess Plan Assets.

"Sec. 420A. Certain reversions of excess plan assets.

"SEC. 420A. CERTAIN REVERSIONS OF EXCESS PLAN ASSETS.

"(a) IN GENERAL.—To the extent that an employer reversion from a defined benefit plan (other than a multiemployer plan) does not exceed the excess plan assets of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) solely by reason of such transfer, and

"(2) such reversion shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975.

Notwithstanding the preceding sentence, the amount of such reversion shall be includible in the gross income of the employer maintaining the plan.

"(b) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYER REVERSION.—The term 'employer reversion' has the meaning given such term by section 4980.

"(2) EXCESS PLAN ASSETS.—The term 'excess plan assets' means the excess (if any) of—

"(A) the lesser of—

"(i) the fair market value of the plan's assets, or

"(ii) the value of the plan's assets (determined under section 412(c)(2)), over

"(B) 100 percent of current liability (as defined in section 412(l)(7) (without regard to subparagraph (D) thereof)).".

(b) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end the following new item:

"Subpart F. Certain reversions of excess plan assets."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reversions after December 31, 1993.

Subtitle B—Extensions

SEC. 13111. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) PERMANENT EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

(d) TRANSITION RULES.—

(1) WAIVER OF INTEREST AND PENALTIES.—No interest, penalty, or addition to tax shall be imposed or required to be paid solely by reason of a failure, before the date of the enactment of this Act, to treat educational assistance in a manner consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as in effect before the amendments made by subsection (a)).

(2) SPECIAL RULES FOR 1992.—

(A) EMPLOYMENT TAXES.—If—

(i) an employer provided an employee with educational assistance during the period beginning on July 1, 1992, and ending on December 31, 1992,

(ii) consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as so in effect), such employer treated such assistance as taxable for purposes of any employment tax and as a result of such treatment there was an increase in taxable wages for purposes of such tax,

(iii) on or after the date of the enactment of this Act and before January 1, 1994, such employer pays such employee amounts which are taxable wages for purposes of such tax and which equal or exceed the increase referred to in clause (ii), and

(iv) such employee did not treat such assistance for purposes of such employment tax (or for purposes of chapter 1 of the Internal Revenue Code of 1986 in the case of employment tax imposed by chapter 24 of such Code) in a manner inconsistent with the employer's treatment of such assistance,

the amendments made by subsection (a) shall not apply to such educational assistance for purposes of such employment tax, but, for purposes of applying such employment tax (and for purposes of the reporting requirements imposed by chapter 61 of such Code), the taxable wages of the employee referred to in clause (iii) shall be reduced by the amount of the increase referred to in clause (ii). For purposes of clause (iv), an employer may assume that the employee treated the assistance in a manner consistent with the employer's treatment unless such employer has actual knowledge to the contrary.

(B) REPORTING REQUIREMENT.—An employer shall separately report the amounts of any reduction under subparagraph (A) as nontaxable income on any returns or receipts required under chapter 61 of such Code for calendar year 1993.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of such Code.

(ii) TAXABLE WAGES.—The term "taxable wages"means—

(I) wages (as defined in section 3121(a) of such Code) in the case of the taxes imposed by chapter 21 of such Code,

(II) compensation (as defined in section 3231(e) of such Code) in the case of the taxes imposed by chapter 22 of such Code,

(III) wages (as defined in section 3306(b) of such Code) in the case of the taxes imposed by chapter 23 of such Code, and

(IV) wages (as defined in section 3401(a) of such Code) in the case of the taxes imposed by chapter 24 of such Code.

(3) INCOME TAX TREATMENT.—If—

(A) subparagraph (A) of paragraph (2) applies to any educational assistance referred to in such paragraph provided to any employee, and

(B) such employee included such assistance in his taxable income for purposes of the tax imposed by chapter 1 of such Code,

the amendments made by subsection (a) shall not apply to such assistance for purposes of such chapter 1, but the amount included in the gross income of such employee by reason of wages received from the employer referred to in subparagraph (A) of paragraph (2) during 1993 shall be reduced in the manner provided in such subparagraph (A).

SEC. 13112. TARGETED JOBS CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

SEC. 13113. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 13114. PERMANENT EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

SEC. 13115. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 13116. PERMANENT EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods after June 30, 1992.

SEC. 13117. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraph (7) as paragraph (6).

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.—Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings."

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (6)" and inserting "and (5)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

(e) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, and recommendations for legislative action needed to implement the proposed procedure.

SEC. 13118. PERMANENT EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is hereby repealed.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.—

(1) IN GENERAL.—Paragraph (2)(B) of section 162(l) is amended to read as follows:

"(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

Subtitle C—Repeal of Luxury Taxes Other Than on Passenger Vehicles

SEC. 13121. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1992, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such ve-

hicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

TITLE XIV—BUDGET PROCESS

SEC. 14001. SHORT TITLE.

This title may be cited as the "Budget Process Improvement Act of 1993".

SEC. 14002. DISCRETIONARY SPENDING LIMITS FOR FISCAL YEAR 1994–1998.

(a) DISCRETIONARY SPENDING LIMITS.—(1) Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (D) and (E) and by inserting the following new subparagraphs:

"(D) with respect to fiscal year 1994, $472,925,000,000 in new budget authority and $525,415,000,000 in outlays;

"(E) with respect to fiscal year 1995, $472,794,000,000 in new budget authority and $516,824,000,000 in outlays;

"(F) with respect to fiscal year 1996, $481,678 000,000 in new budget authority and $514,782,000,000 in outlays;

"(G) with respect to fiscal year 1997, $495,039,000,000 in new budget authority and $518,205,000,000 in outlays; and

"(H) with respect to fiscal year 1998, $505,825,000,000 in new budget authority and $522,752,000,000 in outlays;".

(b) POINT OF ORDER IN THE HOUSE.—Section 601(b) of the Congressional Budget Act of 1974 is amended—

(1) in its side heading, by striking "IN THE SENATE";

(2) in paragraph (1), by inserting "or in the House of Representatives" after "Senate"; and

(3) in paragraph (3), by inserting "or of the House of Representatives, as the case may be" before the period.

(c) CONFORMING AMENDMENTS.—(1) Section 601(b) of the Congressional Budget Act of 1974 is amended—

(A) in its side heading, by striking "DEFENSE, INTERNATIONAL, AND DOMESTIC"; and

(B) in paragraph (1), by striking "or 1995" and inserting "1995, 1996, 1997, or 1998".

(2) Section 602(c) of the Congressional Budget Act of 1974 is amended by striking "1995" and inserting "1998".

(3) Section 602(d) of the Congressional Budget Act of 1974 is amended—

(A) in its side heading, by striking "1995" and inserting "1998"; and

(B) in the first sentence, by striking "1995" and inserting "1998".

(4) Section 606(c) of the Congressional Budget Act of 1974 is amended—

(A) in subsection (a), by striking "or 1995" and inserting "1995, 1996, 1997, or 1998"; and

(B) in subsection (d), by striking "and 1995" and inserting "1995, 1996, 1997, and 1998".

(5) Section 607 of the Congressional Budget Act of 1974 is amended by striking "1995" and inserting "1998".

SEC. 14003. CONFORMING AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Section 250(a) is amended by striking "1995" and inserting "1998".

(2) Section 250(c) is amended—

(A) in paragraph (4), by striking "(A)", by striking "1991, 1992, and 1993" and inserting "1991 through 1998", and by repealing subparagraph (B);

(B) in paragraph (6)(B), by striking "or 1995," and inserting "1995, 1996, 1997, or 1998,"; and

(C) in paragraph (14), by striking "1995" and inserting "1998".

(3)(A) The side heading of section 251(a) is amended by striking "1995" and inserting "1998".

(B) Section 251(b) is amended—

(i) by striking "or 1995" and inserting "1995, 1996, 1997, or 1998" in the first sentence of paragraph (1), in paragraph (1)(B)(i), in the first sentence of paragraph (2), and in paragraph (2)(D);

(ii) in paragraph (1)(B) by striking clause (ii) and inserting the following new clause:

"(ii) The inflation adjustment factor shall be the ratio of—

"(I) the level of year-over-year inflation measured for the fiscal year immediately preceding the current year, and

"(II) the applicable estimated level for that year set forth below:

For 1993, 1.030.

For 1994, 1.027.

For 1995, 1.025.

Inflation shall be measured by the average of the estimated fixed-weight gross domestic product price index for a fiscal year divided by the average index for the prior fiscal year.";

(iii) in the first sentence of paragraph (2) by striking "through 1995" and inserting "through 1998"; and

(iv) in paragraph (2)(F) by striking the comma after "or 1993" and all that follows and inserting a period.

(4)(A) The side heading of section 252(a) is amended by striking "1995" and inserting "1998".

(B) Section 252(d) is amended by striking "1995" and inserting "1998" each place it appears.

(C) Section 252(e) is amended by striking "or 1995" and inserting "1995, 1996, 1997, or 1998" and by striking "through 1995" and inserting "through 1998".

(5) Section 253 is amended—

(A) in subsection (g)(1)(B), by inserting "or any subsequent fiscal year through 1998" after "fiscal year 1994", by striking "fiscal years 1994 and 1995" and inserting "that fiscal year and the subsequent fiscal year (through fiscal year 1998)", and by striking the second sentence and the last sentence;

(B) in subsection (g)(1)(C), by striking "or 1995" and inserting "1995, 1996, 1997, or 1998"; and

(C) in subsection (h), by striking "fiscal year 1994 and fiscal year 1995" both places it appears and inserting "fiscal year 1994, 1995, 1996, 1997, and 1998".

(6) Section 254 is amended—

(A) in subsection (c), by striking "or 1995" and inserting "1995, 1996, 1997, or 1998";

(B) in subsection (d)(2), by striking "1995" and inserting "1998"; and

(C) in paragraphs (2)(A) and (3) of subsection (g), by striking "1995" and inserting "1998".

(7) Section 275(b) is amended by striking "1995" and inserting "1998".

SEC. 14004. MISCELLANEOUS NONTECHNICAL AMENDMENTS.

(a) MAKING PAYGO PERMANENT.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to section 252 or, in the case of any other provisions of that Act, to the extent necessary to carry out that section.

(b) ELIMINATION OF YEAR-TO-YEAR ROLLOVER.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence:

"No net deficit decrease in effect at the end of a fiscal year may be carried forward as an offset against future receipts decreases or direct spending increases in any subsequent fiscal year."

(c) DEFINITION OF EMERGENCY.—Section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraph:

"(22) The term 'emergency requirement', as used in section 251(b)(2)(D) and section 252(e), refers only to an emergency that is sudden, urgent, unforeseen, and not permanent and the expenditure for which is necessary.".

(d) SCORING RULE FOR EMERGENCIES.—Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(D) EMERGENCIES.—If appropriations for discretionary spending for any fiscal year 1994 through 1998 are enacted that the President designates as emergency requirements and that the Congress so designated in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations.".

(e) PAYGO SCORECARD.—Section 252(a) is amended by adding at the end the following new sentence: "The scorecard for purposes of this section shall only include entries resulting from the enactment, after the date of enactment of this Act, of any direct spending or receipts law.".

(f) LIMITATION ON AMENDMENTS TO RECONCILIATION BILLS.—Section 310(d)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would—

"(A) have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years);or

"(B) have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution (for such fiscal years), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent reduction in the discretionary spending limit under section 601(a)(2), an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years),

except that a motion to strike a provision providing new budget authority or new entitlement authority may be in order.".

(g) SUPERMAJORITY REQUIREMENT IN THE HOUSE FOR WAIVERS OF POINTS OF ORDER.—Section 904(c) of the Congressional Budget Act of 1974 is amended by inserting "or in the House of Representatives" after "in the Senate" both places it appears.

(h) LEGISLATIVE JURISDICTION OF THE COMMITTEE ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES.—Clause 1(e)(2) of rule X of the Rules of the House of Representatives is amended by inserting "(A)" after "(2)" and by adding at the end the following:

"(B) The Congressional Budget Act of 1974.

"(C) The Balanced Budget and Emergency Deficit Control Act of 1985.".

SEC. 14005. JOINT BUDGET RESOLUTIONS.

(a) AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—

(1) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "concurrent" each place it occurs therein and by inserting "joint" and by striking "Concurrent" and by inserting "Joint" in the item relating to section 303.

(2) DEFINITIONS.—

(A) Paragraph (4) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "concurrent" each place it occurs and inserting "joint".

(B) Paragraph (8) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "by the Congress".

(3) TITLE III OF THE BUDGET ACT.—Title III of the Congressional Budget Act of 1974 is amended by striking "concurrent" each place it occurs therein and by inserting "joint" and by striking "Concurrent" and by inserting "Joint" in the heading of section 303.

(4) TITLE IV OF THE BUDGET ACT.—Section 401(b)(2) of the Congressional Budget Act of 1974 is amended by striking "concurrent" and by inserting "joint".

(5) TITLE IX OF THE BUDGET ACT.—Section 904(d) of the Congressional Budget Act of 1974 is amended by striking "concurrent" and by inserting "joint".

(b) TECHNICAL AND CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.—

(1) RULE X.—Clauses 1(e)(2), 4(a)(2), 4(b)(2), 4(g), 4(h), and 4(i) of rule X of the Rules of the House of Representatives are amended by striking "concurrent" each place it appears therein and by inserting "joint".

(2) RULE XXIII.—Clause 8 of rule XXIII of the Rules of the House of Representatives is amended by striking "concurrent" each place it appears therein and by inserting "joint".

(3) RULE XLIX.—Rule XLIX of the Rules of the House of Representatives is repealed.

(c) TECHNICAL AND CONFORMING AMENDS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—

(1) SECTION 254.—Section 254(b)(2)(A) of the Deficit Control Act of 1985 is amended by striking "concurrent" and by inserting "joint".

(2) SECTION 257.—Section 257(3) of the Deficit Control Act of 1985 is amended by striking "concurrent" and by inserting "joint".

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes and a member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

MODIFICATIONS OFFERED BY MR. KASICH TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KASICH

Mr. KASICH. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be modified to reflect the changes at the desk.

Mr. SABO. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman will be protected.

The Clerk will report the modifications.

The Clerk read as follows:

Modifications Offered by Mr. KASICH to the amendment in the nature of a substitute offered by Mr. KASICH: Redesignate section 5064 as section 5065 and after section 5063 insert the following new section:

SEC. 5064. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii),

(2) in clause (iv), by inserting "and before January 1, 1994," after "1990,",

(3) by striking the period at the end of clause (iv) and inserting ", and", and

(4) by adding at the end the following:

"(v) after December 31, 1993, is equal to 76 percent of the medium of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(b) TWO PERCENT UPDATE FOR 1994 THROUGH 1998.—Section 1833(h)(2)(A)(ii)(III) (42 U.S.C. 1395(h)(2)(A)(ii)(III)) is amended by striking "1991, 1992, and 1993" and inserting "1991 through 1998".

Conform the table of contents to subtitle A of title V accordingly.

Strike out subchapter C of chapter 3 of subtitle C of title XII (relating to modification of provisions relating to physician ownership and referral).

Redesignate subchapter D of chapter 3 of subtitle C of title XII as subchapter C and conform the table of contents to such subtitle accordingly.

At the end of title XIII insert the following new subtitle:

SUBTITLE D—DISCLOSURE PROVISIONS

SEC. 13131. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 1997" in the second sentence following clause (viii) and inserting "September 30, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13132. USE OF RETURN INFORMATION FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) (relating to the disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(1) in clause (vii), by striking "and" at the end;

(2) in clause (viii), by striking the period at the end and inserting "; and";

(3) by inserting after clause (viii) the following new clause:

"(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs."; and

(4) by adding at the end thereof the following: "Clause (ix) shall not apply after September 30, 1998."

(b) CONFORMING AMENDMENT.—The heading of paragraph (7) of section 6103(l) is amended by inserting after "CODE" the following: ", OR CERTAIN HOUSING ASSISTANCE PROGRAMS".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) STUDY.—The Secretary of the Treasury or his delegate, in consultation with the Secretary of Housing and Urban Development, shall conduct a study on—

(1) whether the information provided under section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 is being used effectively by the Department of Housing and Urban Development,

(2) such Department's compliance with the requirements of section 6103(p) of such Code, and

(3) the impact on the privacy rights of applicants for and participants in housing assistance programs administered by the Department of Housing and Urban Development.

The report of such study shall be submitted before January 1, 1998, to the Congress.

The amendment made by section 14002(a) to section 601(a)(2) of the Congressional Budget Act of 1974 is amended as follows:

(1) for fiscal year 1994, strike "$472,925,000,000 and insert "$468,425,000,000" and strike "$525,415,000,000 and insert "$520,415,000,000";

(2) for fiscal year 1995, strike "$472,794,000,000" and insert "$468,214,000,000" and strike "$516,824,000,000" and insert "$511,824,000,000";

(3) for fiscal year 1996, strike "$481,678,000,000" and insert "$476,898,000,000" and strike "$514,782,000,000" and insert "$509,782,000,000";

(4) for fiscal year 1997, strike "$495,039,000,000" and insert "$490,259,000,000" and strike "$518,205,000,000" and insert "$513,205,000,000"; and

(5) for fiscal year 1998, strike "$505,825,000,000" and insert "$500,975,000,000" and strike "$522,752,000,000" and insert "$517,752,000,000".

At the end of title XIV, add the following new sections:

SEC. 14006. DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT

"Sec. 6097. Designation.

"SEC. 6097. DESIGNATION.

"(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 14007. PUBLIC DEBT REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following section:

"SEC. 9512. PUBLIC DEBT REDUCTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be available only for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from such Trust Fund shall be canceled and retired and may not be reissued."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9512. Public Debt Reduction Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 14008. TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.

(a) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.

"(a) SEQUESTRATION.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session, and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the beginning of that session of Congress, as estimated by the Department of the Treasury on May 1 and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits (or, in the absence of such limits, any net deficit change from the baseline amount calculated under section 257, except that such baseline for fiscal year 1996 and thereafter shall be based upon fiscal year 1995 enacted appropriations less any 1995 sequesters) and (2) the net deficit change that has resulted from direct spending legislation.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

"(2) EXEMPT ACCOUNTS.—No order issued under this part may—

"(A) reduce benefits payable the old-age, survivors, and disability insurance program established under title II of the Social Security Act;

"(B) reduce payments for net interest (all of major functional category 900); or

"(C) make any reduction in the following accounts:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, credit union share insurance fund; or "Resolution Trust Corporation.".

(b) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by inserting before the item relating to August 10 the following:

"May 1 . . . Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue Code of 1986.";

(2) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(3) in subsection (d), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b).''; and

(4) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The final reports shall contain all of the information contained in the public debt taxation designation report required on May 1.''.

(c) EFFECTIVE DATE.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this section. The amendments made by this section shall cease to have any effect after the first fiscal year during which there is no public debt.

Mr. KASICH (during the reading). Mr. Chairman, I ask unanimous consent that the modifications be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Is there objection to the original request of the gentleman from Ohio?

PARLIAMENTARY INQUIRY

Mr. SABO. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SABO. Does the discussion under the reservation, either the explanation by the gentleman from Ohio (Mr. KASICH) or my questions, count against the 1-hour time limit?

The CHAIRMAN. The gentleman has the floor under his reservation prior to recognition for 1 hour under the rule, and the time is not running.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. SABO. Further reserving the right to object, I am happy to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, for purposes of explaining what we are attempting to do here, basically what happened was, as we left the Committee on the Budget, we were told that there was $345 billion worth of taxes and entitlement savings, mostly taxes. Leaving the committee and going to the Committee on Rules, it was our effort to try to fashion a substitute to this reconciliation package as it left the Committee on the Budget that attempted to get there not only with our entitlement savings, as proposed before us, but also with discretionary cuts figured in.

The proposal that we took to the Committee on the Budget was $352 billion. We were asked to produce $345 billion. We produced $352 billion, and then at about 2 a.m. there was a change made, and we now have decided that we are going to include this, and this piece of paper came out at some time around 2 o'clock in the morning, that added a cap in the area of discretionary spending.

So, what I want everybody to understand is, that as we left the Committee on the Budget we had 345 billion dollars' worth of cuts. That was the goal. That was the standard that had been set, and so we fashioned the substitute to cut $352 billion without tax increases, and then the majority decided, at 2 o'clock in the morning, to add their discretionary caps and add the total, making it look as though we do not have as much deficit reduction.

Of course, I do not know what the intentions were of the committee, but what I would say is that we were always told that the goal was 345. We hit the goal.

Now that the effort has been made to count discretionary caps as part of the savings package, we would then like to turn around and add $50 or $75 billion, in addition to the proposal that we make that puts us in the same category as where the majority is. We will be slightly less in deficit reduction, but with no taxes.

Now, in addition to that, we could have prepared additional mandatory cuts. The problem is, however, when we went before the Committee on Rules yesterday with our package, we had to draft all of our mandatory cuts. We had to put our fingerprints all over our mandatory cuts, and we did that under the rules in order to meet the mandatory savings that we set.

In order for us to create additional mandatory savings, we would have to draft that legislation. We did not, obviously, draft that legislation, because we did not know that at 2 o'clock in the morning we were going to get more spending reduction.

So this is an effort to add $75 billion, first, by lowering the discretionary caps by $25 billion over 5 years, and also by calculating in the Walker checkoff program that will take us up $75 billion.

Now, let me just make it very clear to everybody in the House that if the Democrats had told us that they were going to want us to hit $432 billion, we would have hit $432 billion.

Mr. SABO. Mr. Chairman, further reserving the right to object, just so we are clear, our statements from the beginning have been that we expected in the reconciliation bill to extend the caps in similar fashion to the 1990 enforcement act through 1998. That has been our statement all along, and that that was going to be part of it, and I am sorry if the gentleman missed that.

Mr. KASICH. If the gentleman will yield further, the day we marked up the budget, the Committee on Government Operations met and immediately disbanded, unable to reach any conclusion whatsoever about whether there were going to be caps, what their impact was going to be. So as we left the Committee on the Budget, look, all I am saying is, if you had told us you were going to come up here with $400 billion, we would have come up with $600 billion. You told us our goal, our standard, was to get to 345.

□ 1820

We got to 352. If you had told us, "Well, we are going to end up, gang, we are going to put caps in and we are going to get higher," then we would have gotten higher because we have as much deficit reduction.

Mr. HEFNER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] controls the time.

Does the gentleman from Minnesota [Mr. SABO] yield for a parliamentary inquiry?

Mr. SABO. I yield to the gentleman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HEFNER. I do not understand the gentleman's explanation. It seems to me he is making a debate on a budget that he put together, that he is responsible for putting together. If he wanted to add more to his budget, he did not have to——

The CHAIRMAN. The gentleman, Mr. HEFNER, is not making a parliamentary inquiry.

Mr. HEFNER. Well, I am being as specific as the gentleman was. If there is going to be a debate, let us take it out of the allotted time.

Mr. KASICH. Mr. Chairman, I will be glad to respond to that. The simple response to that is that we have responded to every challenge your party has given us. The President said, "If you don't like our taxes, give us your specifics." Do you know what we did?

We gave them to you. You came in with unspecified cuts. Then you said, "We are going to do reconciliation, and we are going to have $345 billion in savings." That is what we figured we were going to get to. And that is precisely what we did. And now you have gone higher, and we are saying, "Fine, and we will go higher. Just make us in order, make us in order." Does the gentleman have an objection——

Mr. HEFNER. If the gentleman will yield, the game is over, the referee has called the game, we have heard the National Anthem. We already started the game.

Mr. KASICH. You added 100 pages, and we want to add 1.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] controls the time.

Mr. WALKER. Mr. Chairman, will the gentleman yield under his reservation?

Mr. SABO. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The problem that we have here is, I, for example, had hoped we would have the debt buy-down amendment that the gentleman wants to include by unanimous consent here. In the Rules Committee, Mr. MCCANDLESS went before the Rules Committee to offer that. That amendment was turned down by the Committee on Rules. The Government Operations Committee never met so that Mr. MCCANDLESS could not offer that amendment in the Government Operations Committee.

All Mr. KASICH is trying to do is to put this particular proposal into his plan, and thereby get the benefit of that much, as you got the benefit of the deficit trust fund in the late-night agreement in the Rules Committee last evening.

Mr. SABO. Reclaiming my time, I have to indicate to the gentleman, in the Budget Committee we have indicated, I think, consistently that it was our intention to add enforcement provisions to the Budget Reconciliation Act in the Rules Committee. It was always, also, I think, obviously stated that we were going to put in the caps for discretionary spending for 1994 through 1998. We tried to play no games with that.

We have been up front. We did not have authority to add that to our bill in the committee, but we were going to do that later on.

As I understand the numbers, what the gentleman from Ohio is doing is that, on discretionary spending, the increases that in his original bill, the reductions, by $125 billion. His amendment would add $25 billion to that. That I understand of his original proposal.

As I understand, the gentleman has $57 billion in additional entitlement savings beyond the bill. Is that accurate?

Mr. KASICH. Would the gentleman repeat that question again, Mr. Chairman?

Mr. SABO. In entitlement savings in the gentleman's base bill, he has $57 billion more than the base reconciliation bill?

Mr. KASICH. That would be approximately correct.

Mr. SABO. Could the gentleman briefly summarize those for me so I can bring judgment to my reservation? I understand the gentleman has additional cuts in Medicare, additional copayments for recipients of Medicare.

Mr. KASICH. It would be the military retirees change.

Mr. SABO. So the gentleman is eliminating all COLA's for military retirees under age 62?

Mr. KASICH. Right. It is the means testing of Medicare.

Mr. SABO. Just so that I am clear: That is in addition to the modifications or COLA's made by the post office?

Mr. KASICH. No, that is not.

Mr. SABO. The gentleman eliminates those?

Mr. KASICH. Yes.

Mr. SABO. OK. The gentleman has some additional cuts in the agriculture program beyond the basic reconciliation bill?

Mr. KASICH. Yes, we do.

Mr. SABO. How much are those, if the gentleman recalls?

Mr. KASICH. About $1 billion.

Mr. SABO. Does the gentleman have some additional requirements on the post office? I am told it is about $13 billion that the Postal Service would have to pay.

Mr. KASICH. About $1 billion.

Mr. SABO. I am told it would have an impact of 2 cents or 3 cents a stamp.

Mr. KASICH. We cannot tell you that.

Mr. SABO. OK. That is what I am told.

Are there some other things in entitlement? We have been trying to search through the gentleman's proposal.

Mr. KASICH. It is just really a matter of whether you do taxes or you do it in some other way. For example, Medicare Part B, whether you feel as though people on Medicare Part B ought not to get a subsidy.

Mr. SABO. Has the gentleman changed the premiums on Part B?.

Mr. KASICH. We do a flipflop where instead of getting 75 percent subsidy over $200,000, you will only get a 25 percent subsidy.

Mr. SABO. Does the gentleman increase deductibility for a variety of Medicare services?

Mr. KASICH. Only for one, only for the labs.

Mr. SABO. And you increase that so the recipient would pay 20 percent more?

Mr. KASICH. That is correct.

Mr. SABO. And the net result——

Mr. KASICH. Everything else in there is of course included in the Democrat bill.

Mr. SABO. And you incorporate all of the Democratic provisions and yours are in addition to that?

Mr. KASICH. That is right.

Mr. SABO. Let me say this as it relates to the amendment: $50 billion of that is not scored by CBO. I have a letter from CBO indicating they cannot score that provision.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, we have a letter from CBO, too, indicating that the best they could do in the short timeframe they had were for illustrative purposes, but they do have a chart which indicates how it would work optimally. If it works optimally, it is a $275 billion or $275 billion savings over the period of time of the 5 years of the program. Instead, all we are scoring it at is at $50 billion, which represents a figure far less than what that performance chart would show.

So, if the gentleman has a letter, he also has the performance chart for that $50 billion, and he understands that that represents less than one-fifth of the amount that CBO did cost out within the last several weeks.

Mr. SABO. I would read to the gentleman:

> Attached, however, is an update of an analysis provided earlier this year to Congressman Walker. This analysis is illustrative only, as specified at the time by Congressman Walker.

Let me go on to say that:

> It does not represent CBO estimates as to the cost of the plan.

Frankly, that is a plan, just so Members know, would basically turn budgeting in this country over to the factor of how much income a particular individual had, how much they were paying in income tax. Let me say to the gentleman from Ohio [Mr. KASICH]: As I have said earlier, I commend him for his efforts, and I enjoy working with him. He is someone who takes what he does very seriously and believes what he is doing. If this were an amendment that dealt simply with technical assumptions and with specific entitlement cuts or specific discretionary spending cuts that he wanted to do, I would be inclined not to object. But I find that a very substantial part of the amendment is a very hypothetical proposal that cannot be scored by CBO, and therefore I must object——

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SABO. I will yield before I object.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, it is far from a hypothetical proposal. The only reason why

it cannot be scored is because they did not have enough time for them to score it. It absolutely can be scored because it involves a sequester. So the only issue is how much the estimate is that people would check off. It absolutely can be scored, but there is a timeframe involved in all of this. We do have a chart. Let me ask the gentleman this: Is there a scoring for the deficit reduction trust that was included at the last hour of the President's proposal? I do not think so. I do not think that one can be scored.

Mr. SABO. No.

Mr. WALKER. Yet that was included at the Rules Committee last evening.

Mr. SABO. I have to respond to the gentleman: We claim no savings from that in arriving at our total savings.

□ 1830

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. SABO. Mr. Chairman, I yield briefly to the gentleman from New York [Mr. SCHUMER] to respond to that question.

Mr. SCHUMER. Mr. Chairman, I would just underscore the point, the deficit reduction trust fund did not change any of the numbers around. It just made sure that the numbers proposed were going to go to deficit reduction, so it does not need a scoring change at all.

Mr. SABO. Mr. Chairman, may I say to the gentleman from Pennsylvania, maybe I am misunderstanding his proposal.

My understanding of his proposal is that an individual taxpayer could check off a certain percentage of their taxes which would go to across-the-board deficit reduction on all programs, excepting Social Security and interest.

Mr. WALKER. No. If the gentleman will yield, the gentleman does not understand the proposal.

The money that would be checked off would go into debt buy-down, would go into a fund for debt buy-down. All moneys that go into the debt buy-down would then have to be cut from spending.

The way in which the cut could take place, the ultimate enforcement mechanism is a sequester, and because there is a sequester in it it absolutely can be scored by the CBO, so that the ultimate enforcement mechanism here is a sequester of moneys equal to the amount being checked off, so it is absolutely scorable by the CBO.

Mr. KASICH. Mr. Chairman, I withdraw my request.

The CHAIRMAN. The gentleman withdraws his request to modify the amendment.

The gentleman from Ohio [Mr. KASICH] is recognized for 30 minutes.

Is the gentleman from Minnesota in opposition to the amendment?

Mr. SABO. Yes, Mr. Chairman, I am.

The CHAIRMAN. The gentleman from Minnesota will be recognized in opposition.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, let me just make it clear that every time the standard has been set for us to meet with specifics in order to cut spending first and raise taxes later, we have attempted to do it.

The colloquy we just watched here with amusement was we were never told that we needed to get anywhere beyond the $345 billion as it emerged from committee. If we had been told it was going to be $445 billion, fine, we would go with $445 billion.

It was always our intention to cut spending first, replace the spending cuts, or put the spending cuts in place of the tax increases. The bottom line is that there is a very simple difference between the Democrat reconciliation plan and the Republican reconciliation plan. We want to downsize government. We want to cut regulation. We do not want to grow the Federal Government.

We have once again answered the call by laying our specifics on the table.

Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I appreciate the distinguished gentleman from Ohio, the ranking Republican on the Budget Committee, yielding me this time.

I rise in support of the Kasich reconciliation substitute.

We have heard a lot of rhetoric here during the general debate about claims that the reconciliation bill brought from the Rules Committee was one which was going to be a panacea for our budget woes and have real deficit reduction, we were told in that.

Well, it is rhetorical homage to deficit reduction that is lip service only, or to go back to an old television show, it is "Let's Make A Deal," the classic late night back room wheeling and dealing that produced the reconciliation package that no one has seen, no one really knows what is in it. It is designed for political cover, not for the economic good of this country.

The only place that bill is going to stand up is a dark room. In the light of day, the American taxpayer is going to see it for what it is, the largest tax increase in the history of the United States.

The substitute offered by the gentleman from Ohio is something that the American taxpayer does understand. It is very different. It understands that our problem is uncontrolled spending, not a lack of revenues. The problem is too much spending by Congress.

The Kasich reconciliation substitute tackles that by cutting spending first. Three simple words: Cut spending first. If we could just keep those in mind today, we might get something that would be good for the country.

It would cut the deficit by $355 billion over the next 5 years. How? It is going to do it through $226 billion in discretionary spending cuts, $129 billion in entitlement cuts, and no tax increases.

Remember, it is tax increases that comprise more than half of the Democratic plan.

It rejects the onerous increases on energy and the Social Security taxes.

The taxes that are in the Democratic plan are those that hit the same lower- and middle-income American that the President promised in the campaign just a few months ago that we would have tax relief for.

The substitute that we offer imposes spending cuts immediately, cuts that are going to total $226 billion over the next 5 years, as opposed to $102 billion in the Democratic plan, and that does not come into effect until the years 3, 4, and 5 down the road.

There is no smoke and mirrors in this. There is no deficit trust fund. There is no moving entitlement targets, no hope of budget discipline that is in that program.

Mr. Chairman, I urge us to adopt the Kasich substitute.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, before 1981, as this chart demonstrates, this green line being 1981, this country never had a deficit larger than $74 billion.

After the Reagan package passed in 1981, those deficits exploded to $200 billion and they have been stuck there ever since.

In 1981, an awful lot of us who were here at that time tried to stop the passage of that plan. We warned that it was doubling military spending. It was cutting taxes for the rich. We warned that it was going to be a bonanza for the rich and it would hurt the country and plunge the country into red ink.

This chart compares the promise of the Reagan package at that time with the actual performance. The yellow bars demonstrate that we were told that if we would just pass the Reagan package, the deficit would go down from $55 billion to zero in 4 years.

The red bars, in contrast, demonstrate what the actual performance was of that package, the deficits rising to over $200 billion.

So when the administration recognized they had a problem and they were not achieving deficit reducing, they tried two more gimmicks, Gramm-Rudman I and Gramm-Rudman II. Neither one of them produced results in terms of deficit reduction.

Now we have a new President and a new plan.

This orange line demonstrates what the trend line for the deficit will be if the Clinton plan is not adopted, defi-

cits of $290 billion today rising to over $350 billion in 4 years.

The green line demonstrates that the Clinton plan will reduce that 4th year deficit by over $150 billion. That gap, that difference will result in lower interest rates which will produce a situation which will make it easier for people to buy their first-time homes. It will make it easier to refinance their houses, to send their kids to college. It will make it easier for small business to find the capital to start business or to expand businesses.

Now we are told, however, that the crowd that gave us the eighties has got a better plan than this one. I would suggest to you that even Babe Ruth was only given three strikes before he was declared out.

The Kasich plan as it is now before us is some $98 billion less in deficit reduction than the plan that the President is supporting today. It hits farmers 50 percent harder than the plan on the Democratic side of the aisle.

It hits $10 billion harder at Medicare.

It requires senior citizens to pay 20 percent of the cost of their lab services. That will fall very hard on low-income seniors.

There is no earned income tax credit in their plan.

□ 1840

That means workers will still work 40 hours a week and still go home in poverty. President Clinton's plan changes that, and, most importantly, there is not one dime in tax hit for the very wealthy.

Mr. Chairman, this chart demonstrates what happened to share of income in this country over the 1980's with all but the top 10 percent losing economic ground. In contrast, the richest 1 percent saw their income double from $300,000 a year to over $600,000 a year. That is what the proponents of the Kasich plan today brought us in the 1980's.

In contrast to that distribution, this is the distribution of the taxes in the plan now before us. As my colleagues can see, even with the much maligned Btu tax, if one makes $40,000 a year, they will not pay more than $14 a month. They will not pay more than $14 a month in new taxes.

In contrast, Mr. Chairman, the people who went to the party in the 1980's, the people who made more than $200,000 a year, will be paying $1,935 a month more in taxes. This comes in the context of a plan which has over $200 billion in spending cuts.

No I would suggest to my colleagues that, after 12 long years, after three false starts on their side, it is time to give the President a chance to make his plan work.

With all due respect to our friends on the other side of the aisle, any of us, with our egos, can have plans which we think will do better, but the fact is there is only one plan which gives this country a real opportunity for deficit reduction, which gives this country a real opportunity for economic growth, a real opportunity for an increase in family income after 12 years of declining family income.

Give the President a chance. Pass his plan. Forget the other let's pretend gimmicks.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I rise in opposition to President Clinton's tax increase, spending increase, and jobs loss bill and in support of the Kasich substitute.

According to the Tax Foundation, Mr. Chairman, the Clinton energy tax alone will kill 837 jobs in the district of the Member who just spoke. In my district we will lose 969 jobs that we cannot afford to lose and over 6,000 jobs in the State of Arizona.

Mr. Chairman, according to the Congressional Budget Office [CBO], the Kasich substitute will reduce the deficit by $352 billion over the next 5 years. It will do so without increasing taxes and without touching Social Security. And, that's why I support it—not because I agree with all of its provisions, but because it proves that there are a whole variety of ways to reduce the deficit by cutting spending.

Although our side was prepared to include even further savings, those efforts were rebuffed by the Democrat-controlled Rules Committee which didn't want the Kasich substitute to look too good.

Unlike the President's bill, the Kasich substitute is based on the premise that spending cuts should come first, which is exactly what the American people have been demanding.

First year savings alone, again according to CBO, amount to $86 billion under Kasich—all from spending cuts. CBO scores the President's plan at zero net spending cuts for the first 2 years.

Kasich strikes the President's retroactive income tax increases, his energy tax, his increased tax on Social Security, and his increased Medicare payroll tax.

It strikes the Clinton spending increases on food stamps and the earned income tax credit—increases which were needed to offset the adverse effects of the President's energy tax. Instead of taxing people into poverty, as President Clinton has proposed, and then providing Government assistance, Kasich allows them to keep more of what they earn in the first place.

The Kasich substitute repeals the luxury tax for most industries. It permanently extends various incentives to promote investment and jobs creation.

Mr. Chairman, this House should not make the same mistake it has made time and again in the past. Immediate and permanent—and retroactive—tax increases, coupled with mere faith that future spending will be cut, will not do the job.

Let us pass Kasich and cut spending first.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BRYANT], a member of the Committee on the Budget.

Mr. BRYANT. First I would like to say, Mr. Chairman, congratulations on a very fine job today, and I would like to say how proud I am to stand here with those of us in this House who are willing to take responsibility for the future of this country, willing to step up to the bar here and advocate for the public what is difficult medicine, but what is necessary.

The choice is very simple at this moment. It is a choice between a $500 billion cut in the budget deficits of this country over the next 5 years, which has been offered by President Clinton and the Democratic majority, or $417 billion in cuts in the deficits over the next 5 years as offered by the Kasich Republican plan. I submit to my colleagues that, if they are serious about dealing with the budget ills of this country, they will advocate a "no" vote on the Kasich plan and a "yes" vote on the Clinton Democratic plan.

We are treated today to a surreal spectacle in seeing the ranking member of this Committee on the Budget come here and at the last possible moment offer an amendment, the contents of which are unknown, about which he is also uncertain, which does not tell us anything with regard to what their philosophy is with regard to dealing with the future, which apparently involves a 2- or 3-cent increase in the cost of a postage stamp among other things, and then we are treated to the complaints from the Republican side that somehow or another they did not know that we were going to go as high as $500 billion, or they would have tried to as well.

I would like to ask: Since when is it that the Democrats determine what the Republicans' goal for budget deficit reduction is? I think it is a ridiculous argument, and I offer to the House this observation:

We can stand firm today and recognize that part of the solution for deficit reduction has to be increasing taxes on the wealthier Americans, and, if we are going to recognize their reality, we are going to be able to deal with the budget deficit. There is time for steak and potatoes, the steak and potatoes of the Democratic budget rather than the cotton candy of the Republican proposals that we have tried to live on for the last 10 years.

I urge a "no" vote on Kasich and a "yes" vote on the Democratic budget.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, according to the Tax Foundation the energy tax will kill 1,823 jobs in the district of the Member who just spoke. In his State it will kill 37,693 jobs. In my district we will lose 1,728 jobs. We simply cannot afford this Btu tax.

But there is another way to reduce this deficit, and that is the Kasich plan which does $352 billion over 5 years with no tax increase.

Every economist will tell us, Mr. Chairman, that we cannot grow an economy with increased taxes, but that is what they seem to want to do. This Btu tax will kill 500,000 jobs, and now we hear, well, Gramm-Rudman did not work from the gentleman from Wisconsin [Mr. OBEY]. It did not work because the outyears were where we were supposed to make the big cuts, and what happened? What happened on the way to the forum in 1990 is we would not make the cuts, so we got a new deal.

Mr. Chairman, it is smoke and mirrors. Kasich is real cuts. I say to my colleagues, "Vote for your district. Vote for your country. Vote for Kasich."

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Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, let me first save some time for the gentlemen on the other side who will follow me. My district, according to this bogus study, will lose 609 jobs due to the energy tax.

What the gentlemen forget to say is that New York City has lost 300,000 under the 12 years of the policies that the Kasich budget will continue. So I say to you, we do better off with the 609 jobs lost than what has happened in the past.

Furthermore, their study is bogus. Data Resources, Inc., which did the study, did six scenarios. Our colleagues forget to tell us a couple of things: First, they took the worst case scenario; second, they did not add in the jobs that would be created from lower interest rates.

It is estimated under this DRI study that under the Clinton plan 261,000 jobs net would be created as a result of this budget. So this is a job creation budget, and do not believe a skewed, bogus study put out by a Republican-sponsored foundation on the Kasich budget.

Mr. Chairman, I respect the gentleman from Ohio [Mr. KASICH]. I have said it in this well before. The gentleman has tried to put together an honest plan. The problem is that the kind of cuts that are in this plan are unpalatable to the American people.

Mr. Chairman, I ask my colleagues on this side of the aisle, do you want to vote to freeze the COLA's for military and retirees between 55 and 62? Vote for Kasich. Do you want to vote to eliminate college assistance? Vote for Kasich. Do you want to vote to eliminate programs that you care about? Vote for Kasich. But you do not have enough votes even on your side to pass this recessionary budget.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I rise in strong opposition to H.R. 2141, the Omnibus Budget Reconciliation Act of 1993. The middle class will be hit the hardest under this plan, whether they are young middle class families, middle class Federal employees or middle class elderly.

The middle class will be hit by the Btu tax which will cost the average family approximately $500 in additional taxes, they will be hit with fewer jobs, an estimated 400,000 to 600,000 fewer jobs throughout the country, including approximately 1,600 jobs lost in my district along according to the National Taxpayer's Union. Every worker and every business throughout my State and throughout this country will be hit with this new tax bill. This will in turn hurt our competitiveness abroad as we raise the price of doing business for every employer and producer in the United States.

This Btu tax penalizes lower- and middle-income families, hurt schools and hospitals, and increases our dependence on foreign oil. Under this tax, hospitals will have to spend more or energy and less on healing; schools will have to spend more money on transporting kids to school and less on educating them; parents will have to spend more money getting back and forth to work less on supporting their families. Adding tens of thousands of dollars to school and hospital budgets will have a devastating impact on local economies and dramatically harm the physical and educational welfare of millions of individuals.

The Affordable Energy Alliance estimates that had this proposed Btu tax been fully implemented in 1990, Virginia residents and businesses would have paid $701.4 million in additional energy taxes. A tax burden this large would hit Virginia's economy particularly hard at a time when we have defense cutbacks hitting our area disproportionately along with millions of Federal employees who will be subject to a wage freeze. The National Association of Counties has noted that these increased Federal taxes will reduce local revenues and result in the need for local governments to increase property taxes, sales taxes and service fees at a time when local governments are still experiencing the adverse effects of the recession. Again, the middle class will be hit the hardest.

The elderly on fixed incomes are also hit hard under this Clinton plan. The Democrat plan promises to raise taxes on seniors making as little as $25,000. And while the energy tax is indexed, the income level at which Social Security benefits will be taxed at a higher level is not indexed so millions of seniors will graduate into this new tax bracket each year. And this increased tax, in a breach of trust with the American people, will not be returned to the Social Security trust fund but will instead be diverted into the general revenue fund for increased government spending.

No country in the world has this kind of tax. This tax will be very difficult to administer and will require all kinds of new regulations and regulators to enforce it. This bill reserves for the Treasury Department the power to unilaterally change new energy tax rates, expand or contract the products subject to the tax, and the power to exempt certain taxpayers. This means the rules on this tax can continue to be changed and businesses will be subject to ever changing rules. Again, this will hurt competitiveness and is not fair.

Mr. Chairman, the Republican alternative to the Democratic tax plan is superior in many respects, and I will support it because it achieves considerable deficit reduction without the burdensome taxes which I have just described. My Republican colleagues who helped fashion this plan did so under considerable time restrictions and have made many tough decisions in crafting this plan. The Kasich plan will reduce the budget deficit by $352 billion yet does not increase taxes or touch Social Security benefits.

While the Clinton plan places a disproportionate burden on Federal and military employees and retirees, the Republican plan eases this heavy burden. I believe the men and women who serve in the civil service and military should be treated fairly. It is important to consider the long-term benefits of having a qualified and effective Federal and military workforce and be cautious in producing short-term savings at their expense.

Unlike the Clinton plan, the Republican substitute won't delay Federal retirees' cost of living adjustments [COLA's], and it won't put limits on Federal employees' COLA's or locality pay. Also, it does not delay military retirees' COLA's and it does not freeze military pay the way the Democrat plan would do. Coupled with the tax increases, Federal and military employees and retirees would suffer more than any other segment of the population under the Clinton plan.

The Republican plan is a dramatic improvement over the tax and spend Democrat budget; however, the Republican plan has some aspects I am concerned about. Under the Republican substitute, Federal employees' retirement age would be increased from age 55 to 62 and nondisabled military retirees would have their COLA's delayed until they reach age 62. Federal employees have relied to their detriment on certain promises made by their employer, the Federal Government, and these promises should be respected. No other nongovernmental entity can unilaterally alter the terms of an employment contract, its illegal and wrong. While the Congress can change the terms of an employees' employment or retirement legally, it is still unfair.

Mr. Chairman, I reiterate that the Republican substitute is substantially more equitable to Federal and military employees and retirees than the Democrat version. However, if I had the opportunity to amend either version, which I don't because the Rules Committee gagged every Member of this body by only allowing one amendment on the floor today, I would offer additional spending cuts to make up the difference in maintaining the Federal and military employee and retirees benefits.

What could we possibly cut to make up the difference? I suggest and many would agree that we cut funding for the superconducting super collider [SCC]. Others concerned could

find other cuts if given the opportunity under the rules. Plagued with dramatic cost overruns, management problems, and no foreign contributions to the projects as was promised, I believe this is a project that we can't currently afford given our budget deficit. Yesterday, Mr. Victor S. Rezendes, Director of Energy and Science Issues, Resources, Community, and Economic Development Division of the U.S. General Accounting Office, testified that the "total estimated cost (of the SCC) is not yet known, but the project's total cost will exceed $11 billion." This $11 billion is more than enough to keep our commitment to Federal and military employees and retirees. If this plan passes the House, I would work to restore these benefits by cutting the SCC.

Mr. Chairman, all Americans have a deep concern about the deficit which I share and want us to cut the deficit so our children and grandchildren don't bear the burden of our excess. The Clinton plan increases taxes, increases spending and as a result the deficit will not be reduced. In order to cut the deficit, Americans want us to cut spending first and the Republican plan best fulfills this goal.

Mr KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I find it interesting that my good friend from New York [Mr. SCHUMER] did admit that he was willing to risk losing 609 jobs in his district. I might also add if he votes for this turkey, he is going to put at risk another job, and that is his own job, as will every other Member who votes for this misguided tax plan.

Mr. Chairman, I would point out that if every Member of this body was facing the electorate next week, it would fail overwhelmingly. To prove that, I point to exhibit No. 1, the current Senate race in Texas, where the interim senator, Senator KRUEGER, has gone on record that he would vote against this. He knows, it is a bad bill because he has got to face the voters of the great State of Texas within 2 weeks.

There is a deficit problem in this country. We do need to reduce the deficit, there is no question about that. Fortunately, there is an alternative to the Clinton tax plan, and that is the Kasich deficit reduction plan. The Kasich plan is not perfect, I admit that, but it has one overriding benefit: no new taxes. I want to repeat that, no new taxes. It has been scored to reduce the deficit over 5 years by $352 billion.

Mr. Chairman, the gentleman from Ohio [Mr. KASICH] asked unanimous consent to amend the plan to bring the deficit reduction up to President Clinton's projected reduction, but that request was rejected by this body about 30 minutes ago.

We do need to begin the deficit reduction process, and we do need real change. President Clinton ran on change but not this change. He actually ran on a middle income tax cut, not a tax increase. Let us begin the process. Let us vote down the Clinton tax plan and vote for Kasich.

The CHAIRMAN. The Chair would announce that the gentleman from Ohio [Mr. KASICH] has 22 minutes remaining and the gentleman from Minnesota [Mr. SABO] has 20 minutes remaining.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in strong support of the Kasich GOP alternative and against the democratic tax bill.

I am a fiscal conservative and believe strongly that we should indeed cut spending first. That is exactly what the Kasich GPO plan does. Real sacrifice and real cuts, without the very real taxes that the Clinton plan imposes on the middle class.

The American public is pretty skeptical about this Democratic tax bill. Why? It is because they have seen it before. It was called the 1990 Budget Agreement which also raised taxes and raised spending. I told President Bush back then that his advisers were taking him to the cleaners and I told it to this White House too. I don't care if it's a Republican, Democrat, or Independent who proposes it: raising taxes and increasing spending to reduce the deficit doesn't work.

Yes, we all do want jobs. Do you know what the energy tax does for my State of Michigan? It costs us about 16,000 jobs. That's 1,000 jobs lost for every Michigan Member of Congress. Add that to the jobs lost by raising taxes on business. That's crazy. Maybe we should raise taxes to 50–60–90 percent and see how many jobs are created then. I doubt we'll get to full employment.

Mr. Chairman, our country demands action. I have heard a lot of my colleagues saying that we should vote for this tax bill for our kids future. Well, what good will it do for our kids tomorrow if their parents lose their jobs today because of all these taxes?

Please vote to cut spending first by voting for the Kasich alternative.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the chairman of the Committee on the Budget for yielding.

Mr. Chairman, I, admire the gentleman from Ohio. He has served this House well on the Budget Committee.

However, I must oppose a reshuffling of figures to solve our national deficits. For 12 years this tactic led to a $4 trillion debt. Our two previous Presidents failed to submit a single balanced budget in 12 years. This amendment appears to be the grandson of Graham-Latta Reaganomics II. The easy path to economic salvation.

Mr. Chairman, let me quote from David Stockman, the author of Reaganomics I, Gramm-Latta I, II, and III. Stockman said, "I knew we were on the precipice of triple digit deficits, a national debt in the trillions, and destructive and profound dislocations throughout the entire warp and woof of the American economy. By then all the major errors which would eventually shatter the Nation's fiscal stability were apparent. I had most of the diagnoses down already. It was only the full and final magnitude of the numbers that would materialize later."

Mr. Chairman, I am afraid that that is what this amendment may do.

Tonight is not the time for easy way outs. The vote I cast will be one of the most difficult in my career.

I do not favor the energy tax and would like to see more spending cuts. As I voted yesterday, I hope before we are through this year's efforts, the energy tax will be lessened. But tonight our only vote is to reconcile the work of our committees and send it on to the other body and continue our personal efforts to reduce spending.

The deficits are the real problem and the only way we can reduce that debt is to raise reasonable funds and restrict unnecessary expenses. Reshuffling figures will not do it. A difficult affirmative vote for the President's plan will at least be a start in the right direction.

The vote that I cast today is the single most difficult one of my entire political carrier. It should come as no surprise that many in western Pennsylvania oppose any tax increases. It is no surprise that many do not want to see Federal spending increased during these times of deficit spending.

I am addressing this body because this is the time for us to face up to the sins of the last 12 years and say that enough is enough.

The reason that there is so much opposition to the leadership that President Clinton has shown, is that there has been so little of it for the last 12 years that we don't recognize it when we see it.

For 12 years, Congress has taken it on the chin for runaway spending. For the fiscal years 1982 through 1993, Presidents Reagan and Bush sent to Congress 12 unbalanced budgets totaling $12,692.1 trillion, which has left us with a $7 trillion national deficit.

More Presidential leadership of this kind we do not need. More of this kind of leadership we cannot afford.

Actions speak louder than words and the time to act is now. Where were my Republican colleagues for the last 12 years? How many times did they go to the White House and demand that Ronald Reagan or George Bush show them, and the American public, where they would make spending cuts and ask them to publicly endorse such a program?

Before you repeat the frequently heard and extremely tired phrase "It's because of the Democrats in Congress, 6 of those 12 unbalanced budgets came in the years when the Republicans held both the U.S. Senate and the White House.

I am here in Washington to work with the Congress and the President to find solutions to our Nation's pressing problems.

I don't like the Btu tax. It does not help my district and I hope that we see some sanity and reason on this issue over the next few weeks. I cannot sit here any longer and listen to this debate knowing that if it results in my President's budget plan going down to defeat, that it foreshadows a summer of declining momentum and unceasing rhetoric, the sum total of which will not advance our efforts to solve the deficit crisis one tiny bit.

The Constitution mandates that spending bills originate in the House of Representatives and I take this responsibility very seriously. I am aware that in many areas my decision will not be popular. To all of those who wrote and called and told me that they favored spending cuts—so do I, and I have publicly endorsed over $220 billion on my own. But, I expect that before this legislation reaches the President's desk it will contain more spending cuts and I will fight for them and for you every step of the way. But before this journey can begin, this body must fulfill its obligation to pass this bill and I will cast an affirmative vote to get this effort moving.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. COBLE], a very distinguished member of the Committee on the Judiciary.

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a constituent called today and told me that according to his numbers in 1933 when the big Government snowball began to roll, the average American worker earned 23 cents per hour. He furthermore reported that had this hourly rate grown at the Government growth rate, the average American worker today would be earning $80 per hour.

My point is, big Government, fed by tax increases, does not create jobs. But this bill is being railroaded down the throats of the American taxpayers and lost jobs will be inevitable.

□ 1900

Roy Acuff, late country music luminary, recorded a song years ago entitled "The Fireball Mail," depicting a locomotive behind schedule, trying desperately to make up lost time.

I have the ominous fear that the fireball mail is rambling through this House today, leaving lost jobs in its wake. Stop the train by passing the Kasich plan.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, to quote a former President, "There they go again."

Rather than ask the wealthiest people in this country, those who have benefited the most from the 1980's, to contribute a little bit to the shared sacrifice that the President of the United States told this Nation we would have to have, the Republicans have decided that they would continue the tax holiday of the 1980's for American's corporations and for America's wealthiest citizens. They have decided they would enter the 1990's and the next century by asking the children of this Nation to pay more, the working poor of this Nation to pay more, the middle-income taxpayers of this Nation to pay more. For those who desire to get off of welfare and to make work pay, with the earned income tax credit, they cancelled that effort. For pregnant women and newborn children that are at risk because of their dire deficient diet, they put them on hold so the wealthy can continue to belly up to the bar of tax breaks.

To those who are seeking jobs and job training, they put them on hold through the 1990's, so they will not have to ask somebody to share in the sacrifice. A far cry from what our President of the United States has asked.

He has asked that we as a country, we as a people, we as a Nation, that we all share in the sacrifice of paying for the excesses of the 1980's, that we all share in the effort to rebuild the economic strength of this Nation and to get rid of this horrible burdensome deficit. And he does that in his economic plan by having every segment of this society participate so we can have equity, not the disproportionate, unfunded, unaccounted for plan that the Republicans now put forth in the 11th hour.

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH], has 19½ minutes remaining, and the gentleman from Minnesota [Mr. SABO], has 16 minutes remaining.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to a member of the Committee on Appropriations, the very distinguished gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, according to the Tax Foundation, the energy tax will kill 771 jobs in the district of the Member who just spoke here, and in my district, we will lose 1,802 jobs, jobs we cannot afford to lose.

Mr. Chairman, I rise in opposition to the President's tax plan. Last year when the voters went to the polls, they sought and were promised a change. To them, change meant getting the economy moving, creating jobs, and making a genuine effort at cutting the budget deficit.

They thought they had their man, but now after the election is over, their hopes have been dashed.

The President's tax bill is a betrayal to these Americans whose idea of change sadly has been perverted.

Mr. Chairman, instead of creating jobs, the President's tax bill will cost hundreds of thousands of jobs in this country, over 1,800 in my district alone, the highest total in Kentucky. Instead of giving the middle class a break, the President's tax bill will raise taxes and prices on just about everything our families buy, from groceries and electricity to gasoline and home heating fuel.

Instead of cutting red ink spending, the President's tax bill increases Government spending and the deficit over the next 2 years. And instead of boosting the economy, the President's tax bill will smother small business with more taxes and redtape, preventing them from creating more of the jobs that we need and actually depressing the economy.

Mr. Chairman, Americans trusted this new President to bring about change, but change for the better. I am sorry to say they have been betrayed.

I urge my colleagues to reject the President's tax plan and make him live up to what he promised us before the election.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, throughout the afternoon we have been making one point, and I think it has become fairly clear that the Democrats understand the point. What they are doing is killing jobs. In every district across this country, the Democrat tax plan kills jobs. The energy tax kills not just hundreds of jobs, it kills thousands of jobs. And it kills thousand of jobs in every State across the Nation.

What we need to do if we are going to bring down deficits is stop the spending. The Kasich plan stops the spending. It reduces spending. It does not raise taxes. By reducing spending, we reduce the size of Government. Less Government means more private entrepreneurship and means a greater chance for Americans to get jobs.

If we vote for the Kasich plan, what we are doing is voting to create jobs. If we vote for the Democrat plan, what we are doing is voting to kill jobs.

The Democrats have shown, time and time again today, that they are perfectly willing to give up those jobs. We have actually had Members come to this floor and defend the fact that they are going to kill jobs in their own districts. That is just absolutely incredible.

We need to save jobs, create jobs. Vote for Kasich.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I rise on the subject of the spectrum auctions, which is in this bill, which will create 300,000 to 500,000 new jobs in the telecommunications revolution embodied in the heart of this Democratic bipartisan proposal, which will be brought out to the floor.

Mr. Chairman, I rise today in support of subtitle C of title V, the Licensing Improvement Act of 1993.

This part of the budget reconciliation proposal is critical to the United States in that not only does it provide relief to the ailing Federal

budget, but it also seeks to remedy an inefficient means of licensing communications services in our country. For the first time we are enabling the Federal Communications Commission to use auctions as a means of assigning the radio spectrum. The rationale behind this proposal is that we must reform and improve the current licensing process, which uses lotteries. In short, there has to be a better way to manage a precious Federal resource than picking names out of a hat. The proposal puts in place a better way, true to the principles underpinning the Communications Act, while at the same time raising revenue, over $7 billion, for the public.

Let me take a few minutes to explain this legislation. Section 5203 grants the FCC authority to use spectrum auctions where there are mutually exclusive applications for new licenses and where the spectrum will be used by the license holder to offer services to subscribers for compensation. This section also directs the Commission to select an auction system that promotes: First, rapid deployment of new technologies and services so as to benefit all the public, including those in rural areas; second, availability of new and innovative technologies to the public; third, recovery for the public a portion of the value of the spectrum, and fourth, efficient use of the spectrum.

The legislation also directs the FCC to establish rules on auctions that will help enforce many of these objectives. First, the legislation provides concrete assurances that those living in rural areas will enjoy access to advanced technologies as quickly as the rest of the country by including strict performance requirements to ensure prompt delivery of service to rural areas.

Second, the legislation directs the Commission to establish alternative payment mechanisms to encourage widespread participation in the auction process. For those Members who want to offer dreams to young struggling engineers and innovators, whether in garages in the Bayou or Boston or the backwoods of any State, these provisions give you that ability.

This specific provision makes certain that those who are rich in ideas and low on cash get a chance to enroll in the future. This provision directs the FCC to consider what alternative payment methods should be used, such as installment payments or royalty payments or some combination, so that all Americans have a chance to participate in the communications revolution.

This legislation also enables the FCC to continue to hold out the promise of a pioneer's preference for the truly genius who catapult technology to another level. In fact, some of that genius is what spawned the entire PCS revolution. Under this legislation those truly genuine technology pioneers will be able to make a run for the roses and get a big payoff if they succeed. As we all know, that is a most powerful incentive, and that is why I think it is vital that we continue the overall thrust of the pioneer's preference program.

Regarding how auctions will be conducted, the proposal reflects the experience with lotteries and gives the FCC authority to make sure that bidders are qualified to build and operate a system and hold an FCC license. The legislation clamps down on the churning and profiteering that has characterized the lottery system, and ensures it does not repeat itself under an auction system. I also think it is important that we insulate the FCC's procedures from budgetary concerns. There is a provision that will give the FCC a shield from those who seek to tilt communications policy in order to increase revenues.

A fundamental regulatory step that this legislation takes is to preserve the core principle of common carriage as we move into a new world of services such as PCS. I have grave concerns that the temptation to put new services under the heading of private carrier is so great that both the FCC and the states would lose their ability to impose the lightest of regulations on these services. The temptation to label everything private is all the more compelling because a recent court of appeals case held the FCC has no flexibility to apply Communications Act requirements. The risk of labeling all services private is that the key principles of nondiscrimination, no alien ownership, and even minimal State regulation would be swept away. This is one area where the FCC simply lacks the authority to make a rational choice, and so the legislation addresses that issue.

The fact that this legislation ensures PCS, the next generation of communications, will be treated as a common carrier is an important win for consumers and for State regulators and for those who seek to carry those core notions of nondiscrimination and common carriage into the future.

The Licensing Improvement Act enables the FCC to identify in a rulemaking which requirements it finds are not necessary to ensure just and reasonable rates or otherwise in the public interest. This section has been modified to further make certain that the FCC retains the authority to protect consumers and apply regulations in a sensible fashion.

In addressing this issue, however, it is necessary to take a broader view of creating parity among competing services. The legislation proposes that any person providing commercial mobile service, which is broadly defined to include PCS, and enhanced special mobile radio services [ESMR's], and cellular-like services, should all be treated similarly, with the duties, obligations, and benefits of common carrier status. The legislation also proposes that States would not be able to impose rate regulation, but this amendment makes explicit that nothing precludes a State from imposing regulations on terms and conditions of service, which includes such key issues as bundling of equipment and service and other consumer protection activities. Moreover, the intent here is not to disturb the principle that carriers can be obligated to offer services to resellers at wholesale prices. For the vast majority of States, their ability to regulate in this area would be preserved.

In addition, the authority of the FCC to act on behalf of cellular resellers would not be affected. Significantly, this legislation extends resale requirements to PCS and ESMR's, thereby opening up market opportunities which do not exist today for resellers.

This legislation sets up a mechanism so that in the next 12 to 18 months, we will see three, four, five, or six new providers of mobile service added to most markets. The result would be a flurry of competition by entities which all have common carriage duties. And the result would be good for consumers by delivering a breadth of new services to the public at competitive prices.

I appreciate that there is some concern that this vision of a competitive world for mobile services may not be fully realized as soon as some contend. I share this concern. That is why the legislation provides that if the promise of competition does not take hold, then a State can exercise authority to regulate rates. In particular, the legislation provides that States can regulate rates if they show that competition has not developed enough to adequately protect consumers from unjust rates. Moreover, the FCC is directed to respond to any State request for authority within 9 months.

Now to turn to the last section of this part of the bill, which states that auction rules shall be issued in 210 days and PCS licenses issued in 270 days. These tight schedules are necessary to realize the revenues that are part of our reconciliation instructions and keep PCS on target.

Chapter 2 of this legislation directs the Department of Commerce to identify 200 megahertz of spectrum to be freed up from Government use and eligible for assignment by the FCC. This proposal, which is embodied in H.R. 707, sponsored by Chairman DINGELL and myself, passed the House in March overwhelmingly. The spectrum proposal is part of budget reconciliation because that makes certain that there will be spectrum available for the FCC to auction off. Hence, the addition of this proposal makes the budget targets more likely to be met.

The Licensing Improvement Act of 1993 accomplishes the goal of improving the licensing process while at the same time raises substantial revenue for the public. I urge support for this legislation.

Mr. Chairman; I rise in support of subtitle C of title V, the Licensing Improvement Act of 1993. Mr. Speaker, this provision hits a home run for taxpayers, by raising $7.2 billion over the next 5 years. This provision hits a home run for private industry, by making more radio spectrum available for their use. And, most importantly, this provision hits a grand slam for the economy and for American workers because it will generate thousands of jobs and new technology services for consumers.

This provision enables the Federal Communications Commission to use auctions to assign the radio spectrum. Auctions have two major benefits: First, they will raise billions of dollars in revenues for the Treasury; and second, they get rid of unnecessary delay and harmful speculation in the assignment of this valuable resource. The provision is careful, however, to protect those users of spectrum, such as public safety telecommunicators and others, for which auctions would not be appropriate. This act also establishes regulatory parity among companies that provide similar services while retaining the current status for the vast majority of private users. Finally, this legislation requires the Government to free up an additional 200 megahertz of spectrum for emerging technologies. This step alone will unleash billions of dollars of investment and create thousands of jobs.

In short, this proposal is a balanced approach to a complicated problem. I urge my colleagues to support this legislation.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I would like to engage the chairman of the Ways and Means Committee in a colloquy on the feedstock exemption provided under the Btu tax. It is my understanding that the bill does not specifically single out any industry for feedstock exemptions. I further understand that the bill establishes a mechanism under which industries would have the opportunity to demonstrate that some part of the energy used in the production process is used not as a fuel but as a raw material, and therefore is not subject to the Btu tax. I further understand that the Btu tax is not designed to provide any undue competitive advantage for any industry. As the representative of the district that produces glass containers I want to verify the fact that this tax does not single out other industries which compete directly with glass products for favorable treatment.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, the gentleman is absolutely correct. The legislation does not provide specific feedstock exemptions to any particular industry. Rather, it establishes an exemption for qualified feedstock uses. The bill defines qualified feedstock uses as the percentage of taxable energy product that is incorporated into the product that is manufactured. Any industry, whether glass, aluminum, plastic or any other, will qualify for the feedstock exemption for that portion of the energy used in production that is shown to be incorporated into the final product. Furthermore, the amount of energy that is shown to be incorporated into the final product will be exempt from this tax.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Texas, [Mr. LAMAR SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it must be divine intervention for the Republican Party to have Democrats arguing their future is tied to the largest tax hike in history. While it may be good for Republicans, the plan is bad for the country so we should oppose this tax bill.

The President says there is no alternative to this tax hike, that spending can't be cut more or the deficit reduced further. The truth is that he has given the American people no choice but higher taxes, more spending and more deficits.

If the President had wanted to cut spending and Government, he had to look no further than to the Republican plan. It cut $430 billion in spending without one cent of new taxes.

The White House's gang that can't talk straight once promised to make the budget process a vehicle for change. Yet they oppose a real line-item veto and a balanced budget amendment.

Supporters of the tax bill must believe Americans don't know how to make, spend, or invest their money as well as the Government. And after $322 billion in new taxes, the deficit will only fall by $40 billion and then goes up again after that. It increases the national debt by $1.2 trillion but cuts 1 million American jobs.

Some try to blame Republican presidents for the deficit. But only Congress has the power to tax and spend. One party—the Democrats—have had virtual control of this branch of Congress for 40 years. Not one tax bill and not one spending bill has passed without their support.

The tax plan is not about cutting spending or the deficit; it is about increasing taxes at the cost of savaging the middle-class. I urge support of the Kasich cut substitute and rejection of the Democrat tax bill.

□ 1910

The CHAIRMAN. The Chair would state that 15 minutes remain.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, 3 years ago, the Democrat leaders told us they had a plan to reduce the deficit by $500 billion over 5 years—one-third of it through higher taxes. At that time, I told this House that plan was a roadmap to recession, and that it would not reduce the deficit.

Unfortunately, Mr. Chairman, that is exactly what happened. The 1990 budget deal drove the economy down, and the deficit up.

Here we are 3 years later for a repeat. Once again, they say their plan will reduce the deficit by $500 billion over 5 years, except this time the tax part is even higher.

If the 1990 budget deal was a roadmap to recession the 1993 tax extravaganza is a fasttrack to the poorhouse. After this goes into effect, the days of 7-percent unemployment, 3-percent inflation, and 2-percent growth will look like golden years by comparison.

Let us not make the same mistake twice.

Let us vote for the Kasich budget, cut spending and lower taxes.

Mr. SABO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I thank the gentleman for yielding to me. I rise in support of the budget reconciliation package.

Mr. Chairman, today we vote on a budget reconciliation proposal which offers the largest deficit reduction program in U.S. history. My constituents, and those of each one of my colleagues, have made it quite clear that reducing the deficit should be the leading priority of the new administration and congress. The legislation before us rises to that challenge.

When the bill came out of the Ways and Means Committee, it did not have my support. While I strongly agreed with the spending cuts contained in the bill, there was a lack of critically needed budget enforcement rules to make sure that revenues and spending cuts would go toward deficit reduction. I joined with several of my colleagues in the conservative Democratic forum to press the leadership and the president to consider entitlement caps. Entitlements make up the largest portion of our budget and are exploding. Bringing them under control must be part of any responsible deficit reduction proposal. I am very pleased to report the caps were included as part of the final bill.

The bill includes language which I have long supported to create a deficit reduction trust fund. All moneys raised from tax increases must go into the account used exclusively for deficit reduction. This ensures that we do not spend the revenue raised on anything other than the deficit.

Mr. Chairman, there is an additional argument to be made in support of H.R. 2264. When we voted for the budget resolution in March, we committed ourselves to a process that would yield $496 billion in deficit reduction over 5 years. We may not like the bill before us for any number of reasons—I do not like the Btu tax—but to defeat the bill and stall the process, knowing that we will have the opportunity to improve the legislation—returns us to gridlock and breaks the promise to our constituents of meaningful deficit reduction.

We cannot expect everyone to understand or support the difficult decision before us. But it is my belief that if we do not continue the process now, knowing that a better bill can be worked out and will be worked out, we may not be able to revisit a deficit reduction package of this magnitude again. Let us keep the process moving and give the Senate a chance to modify the legislation.

Mr. SABO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Mr. Chairman, I rise in support of the budget package.

Mr. SABO. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise today to oppose the Kasich substitute and voice my strong support for the budget reconciliation bill.

I am proud to support the administration's plan and I challenge the rhetoric I hear from my colleagues on the other side of the aisle. During Republican Presidential leadership, the deficit rose from $73.8 billion in 1980 to $290 billion in 1992. Under the budget agreement passed by this Congress in March, the deficit will be reduced by $496 billion over the next 5 years. This pack-

age is the first step in implementing that budget agreement.

I would like to tell all of the people who say that we aren't making spending cuts that they are absolutely wrong—and this bill is proof. When combined with the bill's enforcement language that caps discretionary spending, the bill cuts a total of $250 billion. These spending cuts force us to make some difficult choices; choices that are essential to get the deficit under control.

In addition, I strongly support the provisions in this reconciliation package that help to restore fairness to our tax policy. For the last 12 years, the wealthiest Americans became richer, while most Americans got poorer. We are now acting to make our tax system fair and progressive.

By now, we have all heard a lot about the energy—or Btu—tax. This plan will be phased-in over a 3-year period. In 1994, a family earning $40,000 a year will pay about $1 a month; in 1995 that family will pay about $7 a month, and when fully phased in, the Btu tax will cost the average household about $17 a month. Combined with the Low-Income Energy Assistance Program, the Btu tax is a sensible, rational policy. It promotes energy efficiency and encourages conservation—something that the oil lobbyists don't want to talk about. It also encourages the development of alternative, clean fuel sources which is key to long-term environmental protection.

The people in my district continue to tell me that they are willing to pay higher taxes, as long as those taxes are fair and as long as they are coupled with meaningful spending cuts. They sent me to Washington to reduce the deficit, cut spending, cap discretionary spending, and tax those who can afford to be taxed. That is exactly what this reconciliation bill is about.

Mr. Chairman, encourage my colleagues to support our President and the reconciliation bill, and let us get this country back on track.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget.

Mr. SHAYS. I thank the gentleman for yielding time to me.

Mr. Chairman, it is difficult to listen to this debate and hear how Members of Congress blame Presidents Reagan and Bush for budgets they themselves have voted for. Let's face it, we are in this together. The Presidents may propose but we vote for the budgets. We hold some responsibility.

The bottom line for me is, without Presidential action this debt will go up $1.5 trillion. With Presidential action it will still go up $1 trillion.We are not reducing the deficit enough. And what deficit reduction we are doing is done primarily through raising new taxes.

It amazes me that we could say we are helping the economy when we allow this debt to go up $1 trillion, and we are adding all these new taxes, and we still have health care to pay for.

Senator Tsongas asked in the last campaign, "How can you be projobs and antibusiness?" The fact is you can't be. This is an antibusiness, antijobs proposal of our President. I think Members make a mistake voting for it.

We need to cut spending, reduce the deficits further and move our economy forward.

I urge my colleagues to vote to protect and create jobs. Do not vote for new taxes without more spending cuts.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kentucky [Mr. NATCHER], the chairman of the Committee on Appropriations.

Mr. NATCHER. Mr. Chairman, I yield to our friend, the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I thank the gentleman for yielding.

A moment ago one of our Republican colleagues said that one of the folks on our side of the aisle, by voting for the President's package to cut the deficit, was putting his own career at risk. Amen. It is about time we had people in the House of Representatives who are willing to put their careers at risk for this country's future.

Mr. NATCHER. Chairman, I rise in strong opposition to the Kasich substitute.

The Kasich plan would shift most of the deficit reduction burden onto the backs of our important discretionary programs—especially domestic discretionary programs.

The Budget Committee tells us this equates to an immediate 1994 across-the-board cut of 12-percent for all nondefense discretionary programs.

Let me tell the members what that will mean.

A 12-percent cut in education means a reduction of $2.8 billion—including $800 million out of chapter 7, $900 million out of student financial aid, $360 million out of a special education for the handicapped, $180 million out of vocational education. These are the programs that invest in our country's future. It is not responsible to slash them like this.

For transportation, we would be prevented from trying to fill the $2.6 billion shortfall in the Highway Program at a time when roads are deteriorating and people are already paying the gas tax to fix them.

A 12-percent cut would eliminate 900,000 women and children from being helped by the WIC Program. That's the program that feeds needy children all over this country.

A 12-percent cut would take 87,000 kids out of a Head Start Program.

A 12-percent cut would put 4,500 FBI and DEA agents on the street looking for work.

We would have to furlough 9,000 meat and poultry inspectors at a time when the Secretary of Agriculture says we need more inspectors to assure a safe food supply.

A 12-percent cut would force us to close seven existing prisons and not open eight new prisons that are being built.

This cut would furlough 2,100 employees at the FDA—slowing down new drug approvals and critical inspections of the Nation's blood supply.

For health, it's the same story. NIH—the program that conducts cancer research, heart research, AIDS research, and gives hope to thousands and thousands of people—would be cut by $1.24 billion. We cannot afford to do this.

The list could go on and on.

Mr. Chairman, it would ill-serve our country to slash our important discretionary programs.

These are the programs that invest in our country's future—education, transportation, health, agriculture, research, technology, small business.

These are the defense programs that protect our country.

These are the programs that keep our people safe—the FBI, the DEA, the customs service, corrections programs, U.S. attorneys, our whole judicial branch.

Discretionary programs have to take a fair share of the burden. Under the Sabo plan—discretionary programs take $102 billion in reductions over 5 years—more reductions that in the entitlement category. I am willing to support this because we need to cut our deficit.

But to double these discretionary reductions as the Kasich substitute envisions is not responsible. It would hurt our country's future.

Mr. Chairman, I urge a "no" vote.

□ 1920

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM] and I ask if he would yield to me.

Mr. CUNNINGHAM. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, let me make it clear the cuts we heard are not cuts. They may not be the increase at the level some bureaucrats in Washington determined, but they are not cuts like we have in Ohio, which is below the year before. So let us make that clear.

I thank the gentleman for yielding.

Mr. CUNNINGHAM. Mr. Chairman, in the district of the gentleman from Kentucky [Mr. NATCHER] if the Btu tax was in effect it would cost 793 jobs. Those needy kids might like that. It will cost my district 1,002 jobs.

The Btu tax does not target the chronologically gifted folks, but it affects them. Talking about taxing the rich, this body wants to tax and put a cap on military active duty pay. You

sure do not put a cap on your own pay. They want to cut the COLA's from retirees in the military. You do not put a cap on your COLA's, Members of the U.S. Congress, when you retire.

You say about 78 percent of the Social Security folks will not pay. The only crime of the over $25,000 a year who pay is that they have made some savings over the years.

The Btu tax, the gas tax will affect the middle class.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, I rise in opposition to the Kasich amendment and in the strongest support for the President's package and urge an end to this gridlock.

Mr. Chairman, as chairman of the subcommittee with jurisdiction over matters concerning the insular areas, I want to explain section 9001 of the bill which concerns special insular spending.

This provision would meet the President's budgetary goals; but it is different from that proposed by the Interior Department's territories office.

That office's proposal—which was actually made on the last day of the last administration—would obligate the Federal Government to provide the Northern Mariana Islands with $120 million in special infrastructure funding from fiscal years 1994 to 2000, including $22 million next year.

Recommended by representatives of President Bush and the islands' Governor, the proposal would have replaced the requirement in current law to provide the Commonwealth with $28 million in special assistance on an annual basis.

This bill would also repeal the $28 million a year Marianas aid requirement. And it would provide for insular spending of $120 million over the next 7 years on the schedule supported by the President. But it would not create the same obligation.

Instead, it would provide for spending as follows.

First, the long-authorized $3 million to develop the park honoring the World War II dead in the Marianas would be provided next fiscal year, as the 50th anniversary of the sacrifice approaches.

Second, the other $19 million supported by the administration for spending next year would be provided for high-priority projects in any of the insular areas for which the United States is responsible and which receive special assistance through the Interior Department.

And third, the $98 million which had been proposed for the Marianas for fiscal years 1995 through 2000 would be provided if further legislation is enacted and to the extent such a law provides.

The intent is that the further legislation be considered after there has been more time to address problems in the Marianas which are largely responsible for the unwillingness of Members to guarantee another $120 million in special assistance to the Commonwealth at this time.

Mr. Chairman, this provision is a compromise that I worked out with the distinguished chairman of the full committee, GEORGE MILLER. It reconciles the absolute objection that he and other Members on both sides of the aisle had to committing to new assistance for the Marianas now in light of the situation there on one hand and the Interior Department's proposal for the $120 million on the other.

What it would do, in essence, is provide for priority uses of the $22 million proposed for next year—including a project that is of great importance to the Marianas—and defer a final decision on the $98 million proposed for the Marianas for later years. That decision would, almost certainly, be negative if made now.

It would preserve the possibility of the aid that the Marianas wants to the greatest extent possible without making the final commitment to it that Members are unwilling to make.

The arguments against making such a commitment now are compelling.

Perhaps the most irrefutable is that the Marianas are not doing all they can to meet their own needs.

The tax burden imposed by the Commonwealth is a fraction of that which applies in other areas under the U.S. flag. In part, this is because the Commonwealth rebates much of what it collects under the Federal income tax rates that serve as the basic local tax rates.

The rebates totaled $49 million in 1991 alone. Some rebates may be justifiable for economic growth reasons; but many others given to higher income taxpayers are not.

The bottom line is that the Marianas gives away many millions of dollars each year that it could use for the infrastructure that the assistance proposal would require U.S. taxpayers to pay for. How can we ask U.S. taxpayers to pay higher taxes to subsidize higher income Marianas taxpayers paying less than U.S. taxpayers do now?

That the Marianas income tax system undermines the justification for additional special assistance is not a new issue. It was raised by a predecessor of mine as chairman of the subcommittee, the late Phillip Burton, who passed away over a decade ago, and more than one Commonwealth Governor has conceded to it.

The Marianas also does not impose other taxes common under the U.S. flag or charge users of public services, such as utilities, a fair cost for those services. Regarding this latter point, the failure to bill full cost recovery utility rates contradicts a commitment that the Marianas made to obtain $228 million in special aid between 1986 and 1992.

Development in the Marianas also argues against the commitment.

For one thing, the islands are now a very different place than they were when the special assistance program was first agreed to. They now have a substantial private sector where there was virtually none then.

This private sector can generate substantial amounts of the revenue that the islands need for new infrastructure. The original purpose of the special assistance commitment was to help the islands establish such an ability. This purpose has largely been fulfilled—even though the Commonwealth is not, as I have explained, tapping the full revenue potential from it.

Additionally, much of the islands' current infrastructure need is caused by this development. This need goes beyond the Federal responsibility to help because the development is imposing costs on the community that it is not meeting.

The islands' development policies are based on the use of cheap alien labor and this is a further cause of concern. The low-paid, foreign workers involved are not only being used temporarily to meet development needs, such as construction, for which there is no other immediate labor source, they are being used to fill permanent jobs as well.

So-called temporary alien workers—who actually generally stay in the islands for several years—now make up most of the islands' population. This situation raises questions about the nature of democracy in the islands—since the aliens lack political rights—as well as questions about the Marianas' needs—since the aliens put demands on public services.

The local immigration policy that makes this situation possible was developed in spite of Federal objections, particularly as the policy relates to the islands' clothing manufacturing industry.

This industry, which has primarily developed since the last assistance commitment was made, uses a combination of federally provided advantages, including the ability to import cheap alien labor and public services subsidized by special Federal assistance, to unfairly compete with manufacturers elsewhere under the U.S. flag.

Members concerned about the decline of the domestic textile industry, like our distinguished colleague from Virginia, L.F. PAYNE, find it unconscionable to, in effect, ask U.S. taxpayers to pay higher taxes—as we are in this bill—to subsidize this unfair competition.

Their objections to the Marianas garment industry's labor force are not only that foreign workers are used but that these workers are paid less than the minimum wage that other U.S.-based manufacturers must pay.

Additionally, the Marianas' minimum wage policies in general are also an important point of contention.

The minimum wage is $2.15 an hour and doesn't cover many classifications of employment in the Commonwealth. Its purpose seems to be different than the national minimum wage—which is to ensure a living wage for all workers.

The Marianas policy appears, instead, to be established primarily for the benefit of employers. And it really only applies to the alien workers since the U.S. citizens of the Commonwealth won't work for anywhere near the minimum wage rate, let alone the lesser rates paid in most occupations exempted from the minimum, such as construction and household jobs.

The treatment of many of the workers has received national attention. There have been numerous cases of abuse and poor treatment, including the failure to pay even the low wages due.

Some of these cases have resulted in major Federal law enforcement actions; but others do not appear to have been handled as seriously as they should have by local officials.

Many cases involve the islands' controversial garment industry and some major ones have involved the largest manufacturer.

This private interest's role in much of what I have mentioned is a cause of great concern. It certainly creates a problem for the idea of committing new assistance to the Marianas.

This interest is both paying substantial amounts to lobby for the $120 million and it is organizing opposition to local efforts to reform the tax, alien labor, and minimum wage policies that have caused Members to be unwilling to commit to providing the funds.

Further, its relationship with certain local officials appears to be so close that questions are raised about whether the local public's interests are also being articulated.

Why is the $120 million that has been proposed worth so much to this private interest? Is it because the funds would subsidize the interest's current profitable situation? Is it because the commitment would lessen the pressure for—and the possibility of—the reforms that I have mentioned?

Members are unwilling to commit to the assistance because of the problems with local policies and because of the way that some local officials have responded to concerns about these policies.

There have been arguments attempting to justify the policies, sometimes misleading ones. There have been efforts to minimize the problems. There has been a lack of cooperation in addressing them. There have been promises to take corrective action that have not yet been fulfilled.

There has been no lack of notice that policies and practices would have to be changed if Members were to support further special assistance. Some of the issues were raised when the current assistance commitment was enacted in 1986. The full range of issues and the need for corrective was discussed in a major hearing that I conducted last year.

But action sufficient to convince Members that further aid can be committed has not taken place to date.

This is not to say that there has not been movement in that direction, however. The Commonwealth has begun to address many of the issues of concern.

Among measures taken so far that relate to concerns that Members have raised are an ethics code, an antiprostitution law, and a zoning law. The insular government is considering measures relating to increasing the minimum wage and applying it to uncovered workers, enforcement of immigration laws, limiting the stay of temporary alien workers, alien workers' rights, workplace conditions, a human rights commission, and tax reform.

The Governor has, further, directed compliance with Interior inspector general audit recommendations—another issue that is very relevant to this funding decision because of misspending of past assistance.

In view of the efforts being made by the private interest that I have mentioned to secure the binding assistance commitment, its close ties to some officials, and its opposition to key reforms, can we be confident, however, that policy improvements will occur if the $120 million is guaranteed?

The compromise included in this bill, Mr. Chairman, is designed to encourage reforms of local policies to the greatest degree possible. It delays the funding decision until we can see whether they actually take place.

It also does not interfere with current local government authority. It does not require the reforms, for example; it only sets up a process that will delay the real funding decision until, as I said, we see whether policy improvements are made.

The strong message it sends may be necessary to counteract the power of the private interests that are opposing reform. The choice—which will affect the ultimate fate of additional special Federal assistance—will continue to be that of the people of the islands.

In working on this compromise, members of the Natural Resources Committee considered—but did not agree to—other approaches.

One, which I explored, would make a final assistance commitment to the Marianas but provide that the funds could not be released until policy improvements were made.

A problem with this idea, however, is that it would require the setting of specific performance standards and there are concerns about doing so.

First, such specifics—such as the exact nature of local revenue laws—should be determined locally.

Second, it would be infeasible to set them in Washington in any case.

Third, the issues are complicated enough that fair specifics can't be adequately determined without more intensive study and debate than the time of this bill allows.

And, finally, Members do not want to delegate these decisions to executive branch officials, especially in light of past handling of the issues involved.

To help resolve the understandable debates over the specifics of policy changes—and to ensure that the Congress has full information on the issues as well as Marianas efforts to address them—this legislation would require several Federal agencies to submit information on key issues of concern.

The more basic problem with the idea of committing to the assistance but conditioning release on the implementation of specific policy changes, however, is that Members are simply unwilling to commit to the assistance now. They may be willing to do so if the Marianas improves policies sufficiently—and I think that there will be some moral obligation for us to try to provide funds if this happens. But they are not willing to make a commitment, given past history and the current situation.

Another approach that has been suggested is closer to the process contained in the bill before us. It would require further legislation to commit assistance to the Marianas but reserve all of the $120 million for infrastructure in the Commonwealth.

The difference from the bill is that this suggestion would not provide funds new year for the park in the Marianas or priority projects in all the insular areas.

The primary problem with this idea relates to timing. The $22 million involved needs to be outlayed in fiscal year 1994.

The suggestion would only work if the Marianas made policy changes that convinced Members to support further funding in time for legislation to be enacted early enough to still allow for funds to be used next year. It is not clear that all of this could occur in sufficient time.

In any case, the bill we are considering today already provides for this possibility. It would enable all of the $19 million of the funds it would make available for projects in all of the insular areas concerned to be used in the Marianas if further legislation so provides. But, if not, the funds could be used elsewhere so they are not denied to any insular purpose.

This brings up another concern that Members of both parties have about the proposal. While it would go a long way to meeting needs in the Marianas, there are needs in other insular areas that there is more justification for the Federal Government to meet that there are now no plans to meet.

The situation of American Samoa provides the starkest example of this. The territory's infrastructure needs may be even more basic than those of the Marianas; but it has less economic resources on which to draw to meet these needs than the Marianas does and its long-range development potential is less clear than the Marianas.

Further, Samoa uses U.S. rate income taxes, suggesting a greater local effort to meet its needs with the lesser resources it has. Yet, the Bush administration—which proposed the $120 million, 7-year commitment—refused to make a commitment of multiyear assistance to Samoa.

A feeble explanation for the inconsistency between the proposal of massive new aid for the Marianas and the refusal to propose aid for Samoa that I have heard is that Samoa has serious financial management problems.

The problems with this excuse are, though, that the Marianas has also misused past assistance, as I have noted, and that an assistance commitment would provide an opportunity for ensuring the improvement of Samoan spending policies and practices.

So, since Members are unwilling to commit new assistance to the Marianas until policy problems are addressed, do not want funds proposed for insular needs diverted to non-insular purposes, and are concerned about needs in other insular areas, we have proposed using fiscal year 1994 funds for high priorities in any of the smaller insular areas.

And, let me point out again, this will include the Marianas if Congress makes the required determination.

The Marianas can have substantial assistance for its infrastructure needs next year even if further legislation does not provide for it to receive any of the $19 million, however.

Some $27 million in interest earnings on the $228 million provided the islands between fiscal years 1996 and 1992 are available whenever the Commonwealth meets its earlier commitment to charge more reasonable utility rates.

Mr. Chairman, Members have some other concerns about the commitment proposal that I should mention.

A couple relate to the proposal itself.

One of these is that it asks for $120 million to be committed without specifying the projects to be funded or without any Federal approval of the projects. This provides us with no assurance that what we would agree are priorities will be met.

It has been argued that we should not be concerned about this lack of assurance because past aid was not provided on a specific

project basis. Past funds were required to be used according to a federally approved plan, however.

Recent suggestions by Marianas officials of how the new funds would be spent are helpful; but they do not eliminate the concern. This is because they still provide on assurance that the funds will be used as is not being suggested.

Another concern is that the agreement under which the funds would be used states that it could be amended by unspecified Federal and Commonwealth representatives. Terms that the Congress thought important could be eliminated or terms to which the Congress would object could be added.

Other concerns relate to an agreement between the Interior Department in the last administration and the Marianas regarding the tax and alien labor issues. In attempted to address our committee's concerns through plans for studies of the issues. The problem is that the studies, which were planned without consulting us, are not as broad in scope as they should be.

More recently, some have suggested that the Congress should approve the assistance commitment in spite of concerns about the Marianas' inadequate revenue effort because the representatives of President Bush and the islands' Governor agreed that the Marianas would match the Federal $120 million.

There are significant flaws in this argument, however. One is that it is not clear that the matching will require an adequate tax effort, although it may very well require some increase in local revenues. In this regard, it should be noted that our committee was given no specific information on this point. Also detracting from this argument is that the terms of the agreement could be changed, as I have noted.

There is a final concern that must be expressed. It's that the proposal has been mischaracterized as an agreement between the Federal and Commonwealth Governments, suggesting that it is, somehow, binding.

Some of the confusion about this issue may have been caused by the representatives titling the recommendations as an "agreement." Of course, in fact, the agreement is, as I have noted, merely recommendations made by representatives of the last President and the current Governor of the islands that the Congress has full discretion to accept, modify, or reject.

The covenant which established the political union between the Federal and Commonwealth Governments provided for the talks which developed these recommendations. But it in no way suggests that the talks were to actually determine assistance beyond that which it required—as opposed to developing recommendations.

Those who have suggested that there is an obligation to approve the recommendations sent us should remember that the Congress did not approve all of the recommendations that representatives of President Reagan and the Governor of the Marianas made in 1985 in enacting the assistance commitment that is currently in effect.

I have gone on at great length, Mr. Chairman, because I believe that we have an obligation to be very conscious about actions that are as critical to the only jurisdiction within the American political family that has no representation here as the approval of this bill would be. I also hope that what I have said will help explain our action to the people of the islands.

They should understand that it is being taken not without concern for their welfare but because of concerns about the situation there. They should also understand that it is reasonable in light of the situation and its background.

I want them also to know that it is not being taken without any sensitivity to where they have come from as a community, the problems they have faced, and how fast the islands have developed, a pace that has not always permitted perfect policy.

Additionally, they should know that it is not being taken without hope for the future. I still regard the covenant partnership as an important and viable one and will try to obtain a full commitment of aid if the Commonwealth changes course.

As one who was involved in the founding of the covenant and a fellow islander, I have worked to obtain a compromise as favorable as possible to the Marianas. But this House, which has been more supportive of the rights and interests of the Commonwealth than any other part of our Govenment—including on funding issues—in the past, is not willing, at this time, to make a final commitment of new assistance of a type not provided any other area under flag.

This course pursued by local officials is the primary reason. I hope that it will change—as there is reason to believe it will.

In concluding, Mr. Chairman, I want to express my appreciation to the ranking Republican of the subcommittee, ELTON GALLEGLY, for his cooperation on this matter; to the Marianas' representative in Washington, Juan Babauta, for his responsible leadership on the issues that I have mentioned; and to the Lieutenant Governor of the Commonwealth, Benjamin Manglona, for his hard work to obtain the funding.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, I rise in opposition to the Kasich amendment and in support of the President's plan.

Mr. Chairman, I rise in support of H.R. 2264, the Omnibus Reconciliation Act of 1994.

For the past 12 years, this country has been suffering from a ballooning deficit and a growing national debt. Despite talk of deficit reduction, the past administrations have allowed the Federal deficit to explode from $70 to over $300 billion. As a consequence, our national debt has grown from less than $1 to over $4 trillion. The seriousness of the deficit cannot be overstated—as long as the debt continues to grow, our economic recovery and growth will be impeded and our future vitality threatened.

We finally have a President with the courage to face these problems. President Clinton's proposal provides serious and credible deficit reduction. H.R. 2264 will cut the deficit by nearly $500 billion over the next 5 years. More than half of this deficit reduction is achieved through real and specific spending cuts, including cuts in agriculture programs, administrative costs, and entitlements.

In addition, the policies of the past 12 years have shifted the tax burden from corporations and the wealthy to low- and middle-income people. Income for the wealthiest Americans has gone up while their tax burden has gone down. The rest of America has seen their tax burden go up while their real wages have gone down. This plan restores fairness to our tax system.

The overwhelming majority of taxes fall on the most wealthy Americans, those who benefited most from the tax breaks of the 1980's. Some 75 percent of the taxes fall on those making over $100,000 a year. Families making under $25,000 will actually pay fewer taxes.

Lower interest rates, as a result of this deficit reduction plan, will also help offset tax increases. Since President Clinton was elected in November on a platform to reduce the deficit, interest rates have fallen from 8.29 to 7.43 percent. This translates into lower mortgage and car payments for many Americans.

I know that tax increases and spending cuts will be painful but there is no other way to reduce the deficit than to ask everyone to pay their fair share. If nothing is done, the Federal deficit in 10 years will exceed $600 billion and our economy will be doomed to long recessions interrupted only by periods of sluggish growth.

The Republican legacy of growing deficits and slow growth has left us no choice but to reduce the deficit, invest in our economy, and put Americans back to work. The President's proposal is better than the alternatives being offered by his critics, who would shift the burden of deficit reduction to working Americans and senior citizens.

The Kasich substitute would replace taxes on the wealthy with cuts in programs for the poor and the elderly. The Boren-Danforth proposal would substitute the Btu tax, which, when fully implemented in 1998, would cost the average family only $17 a month, with caps on entitlement and cuts in the cost-of-living adjustments [COLA's] for Social Security recipients. Obviously placing the burden on the poor and the elderly is not the way to reduce the deficit.

Mr. Chairman, President Clinton has done what his predecessors and critics have failed to do, proposed a credible and balanced plan to get our deficit under control, keep interest rates low, and put Americans back to work. I urge all my colleagues to support the President and pass the budget reconciliation.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from my State of North Dakota [Mr. POMEROY], another very able new member of our committee.

Mr. POMEROY. Mr. Chairman, we have heard from a lot of rural Republicans this week bashing the Budget Reconciliation Act by saying it would be damaging to agriculture. It will be very interesting to see how they will vote on the Republican budget alternative in front of us. Their cuts in agriculture are a full 50 percent higher than the Budget Reconciliation Act, and make no mistake about it, the cuts for agriculture in the Budget Reconciliation Act are tough and they will hurt.

For Republicans to increase this hit by 50 percent is completely irresponsible. It has been my judgment that the Republican Members of the Agriculture Committee are a lot more inclined to talk about what they are against rather than what they are for. As we look at their plan, which recklessly slashes an additional 50 percent for farmers while falling nearly $100 billion short of the majority proposal for deficit reduction, it is easy to see why.

I urge a "no" vote on the deeply flawed antifarmer Republican budget alternative, and I look forward to hearing what phony job numbers they have for my district with the next speaker.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. And for those numbers, Mr. Chairman, according to the Tax Foundation, the energy tax will kill 1,168 jobs in the district of the Member who just spoke. In my district we will lose 1,121 jobs that we cannot afford to lose.

Mr. Chairman, I rise in support of the Kasich substitute.

Although the Democrat's bill is technically called the omnibus budget reconciliation package, it would more appropriately be called the omninous budget reconciliation package.

That's because passage of the Democrat tax bill would have ominous implications for the American economy, American jobs, and the American people.

The $500 per family energy tax alone would cost the Nation 600,000 jobs. In my home State of Minnesota, it would put nearly 9,000 people out of work, over 1,100 in my own district.

This bill also has ominous implications for senior citizens. By increasing the tax on Social Security, Congress has found another backdoor way of robbing the Social Security cookie jar to finance more spending.

Mr. Chairman, if my Democratic colleagues would spend as much time reading the history of the last 12 years as they have rewriting it, they would know you can't tax and spend your way out of a deficit.

Just 3 years ago, House Democrats passed what was then the largest tax hike in history.

In doing so, the American people were told that in exchange for their sacrifice, Congress would control spending and eliminate the deficit.

What happened? Taxes went up, spending went up, and we got the largest budget deficit in history.

Well, my Democratic colleagues, there you go again.

You are proposing another record tax increase—one that makes the last one look like a downpayment. And once again, you want the American people to believe your record tax and spend package will balance the budget.

Does anyone believe you? Are you not the same folks who went around promising middle-class tax cuts just 6 months ago?

The bottom line is you cannot tax and spend your way out of a deficit. You have got to control spending. That is what the Kasich amendment does, and that's why it deserves our support.

Mr. Chairman, I remind my Democratic colleagues that the voters won't forget what you do today—just as they didn't forget George Bush for raising taxes in 1990.

I say to my colleagues, today you have two clear choices: You can vote for the Kasich substitute and take real action to reduce the deficit without tax increases, or you can vote for the Clinton tax increase, and follow the President like lemmings to the sea.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Chairman, I rise in strong support of the Kasich amendment and in opposition to the Clinton tax plan.

Mr. Chairman, I rise this evening to support the budget amendment offered by the gentleman from Ohio, Congressman JOHN KASICH, and against the tax-and-spend bill of the President.

Back in 1990, Congress and the then President agreed on a tax package to solve our growing deficit problem. I voted against that bill because it didn't attach the major reason for that deficit, namely uncontrolled congressional spending. That plan failed and the one brought here tonight by the majority won't work either. When spending can only be cut in one area, defense, by the majority, and nothing else of consequence changed, we have a flawed bill. When a new $300 million entitlement can be added to fund programs for illegal aliens then something is seriously wrong in this House. Mr. KASICH'S plan isn't perfect. I don't like parts of it but the spending hemorrhage is finally addressed. Tax-and-spend doesn't work—let's cut the bureaucracy and programs that either don't work or aren't necessary.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise to oppose the Clinton spending bill and in support of the substitute.

My State of Wyoming is listed as being the highest victim on a percentage, per capita basis of loss of jobs.

Mr. Chairman, we have had lots of discussion today and lots of charges and countercharges. I do not have any charts. I am not an economist, but there are some things I believe in, and they are the same things that most people believe in, and I believed in them in 1990.

That is some classic things, that you do not stimulate the economy by raising taxes. You do not reduce the size of Government by increasing spending. You do not balance the budget with new taxes. We know that. And you do not help families by taking the money out of their hands and spending that money through the Government.

This bill goes in the wrong direction. These are pretty classic things. Most of us who are not technicians understand them.

Mr. Chairman, I rise in opposition to the Clinton bill.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Chairman, let us talk about a real person who will be affected by the Btu tax, my grandmother, Kathleen Crow, who lives in Houston, TX, who is 87 years old, who saved to purchase her own home, who drives a 1966 Chevrolet, and who has as her only source of income her Social Security check. My grandmother, who does not qualify for food stamps, who does not qualify for an earned income tax credit, is 1 of the 36 million senior citizens who have no income flexibility, 1 of the 36 million senior citizens who will pay the Btu tax when she goes to purchase gasoline, when she pays her utility bill, when she goes to the grocery store.

The Btu tax is a cruel tax. It is an insidious tax, but it is the worst of all for those people who have no income flexibility at all, that is the 36 million senior citizens of this country who will be most affected by the Btu tax.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. TUCKER], another very able new Member of this Congress.

Mr. TUCKER. Mr. Chairman, I rise in strong opposition to the Kasich amendment.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding. I just had to say, as I was listening to this debate, I realized that the millennium has arrived. The Democrats have become the party of deficit reduction; the Republicans the party of obstruction.

We are on the road to victory and a real change in America.

Mr. TUCKER. I thank the distinguished gentleman from new York for his comments.

As I was saying, Mr. Chairman, what we are dealing with, there was a comment by one of our Republican colleagues asking whether or not this is a jobs package and actually challenging anyone on the other side of the aisle to come up with some information that would indicate it was such.

Recent statistics from the Treasury Department indicate that in my State of California, by 1997, there will be a

net savings of $4.4 billion based on the earned income tax credit, the lower interest rates, as well as the probusiness and prolearning programs. By 1997 we will see a net gain of 28,000 jobs in the State of California.

That is what I call a budget reconciliation bill that is job creating. But, Mr. Chairman, we are not talking about job creation here, at least the Republicans are not. What they are talking about is job rhetoric, and especially tax rhetoric, because when you have lost the White House, and when you do not have the majority of this House, all you can do is give a lot of statistics that talk about rhetoric.

But they do not talk about the fact that under the Republican administration in 12 years we had the greatest deficit, not reduction but increase. They do not talk about the fact that this plan speaks to the greatest deficit reduction in the history of this country, not just the greatest tax increase.

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So let us talk about what we are really talking about, Mr. Chairman; let us vote down the Kasich amendment, and let us vote up the Budget Reconciliation Act.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, when will we learn that increased taxes do not work? In 1986 they tried with Gramm-Budman-Hollings and in 1990 with the Bush tax package.

Just look at one example. This Congress imposed a luxury tax on expensive pleasure boats. This wonderful tax nearly destroyed America's boat building industry. Thousands of jobs were lost. World markets were lost forever.

Now this Congress is about to impose the largest tax increase in history; it will devastate every business, every home, and every family. When will we learn. This huge tax increase will kill jobs, help shut down businesses, and drive manufacturing overseas. I ask you, when will we learn?

Unfortunately, most of the Members of Congress, the President of the United States, and his advisers just don't understand. The people of America want spending cuts, not higher taxes. The people of America sent us here to create jobs, expand the economy, and work for a better future for our children.

The people of America demand Government cuts, not higher taxes. Unfortunately, this huge tax increase will stifle economic expansion. This tax increase will help kill the American dream.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in support of the President's plan.

Mr. Chairman, I rise in support of President Clinton's deficit reduction plan, and I look forward to its passage by this house.

The tab for the false prosperity of the Reagan-Bush era has finally come due, and today, we will take the first step to reverse the failed policies of the past.

The President's plan should be viewed as a start—a needed start. It is not perfect, but it is fair.

When I meet with my constituents, they tell me they are willing to pay their fair share to reduce the budget deficit. I believe that President Clinton's plan follows this logic. Indeed, for approximately 80 percent of American families, the Btu tax and other revenue proposals will mean an increase of only one-half of 1 percent in their tax bills.

My colleagues on the other side of the aisle decry this plan as all taxes and no cuts. Well, this bill does contain cuts—$102 billion over the next 5 years from a hard freeze in discretionary spending, plus painful cuts in entitlements. Moreover, I know during the appropriations process Members will have the opportunity to make further cuts in domestic spending by ending altogether the superconducting super collider, the space station, the Rural Electrification Administration, the advanced solid rocket motor, and many other wasteful programs. When these votes occur, I hope my colleagues who say they are for cutting spending will join me.

Mr. Chairman, we are all concerned with taxes, particularly the energy tax. However, I am also more concerned with reducing the debt and putting Americans back to work. I want to point out that the energy tax has been modified already to ensure it is fair to all regions, and it may be altered later in the reconciliation process. It is also important to note that even when the Btu tax is fully implemented in 1997, energy costs in America will still be lower than the energy costs of our economic competitors, except for Canada's hydropower.

No one wants to raise taxes, but as former Reagan Budget Director David Stockman recently wrote in a New Perspectives Quarterly article:

> The root problem goes back to the July 1981 frenzy of excessive and imprudent tax-cutting that shattered the Nation's fiscal stability. The GOP has neither a coherent program nor the political courage to attack anything but the most microscopic spending marginalia.

Mr. Chairman, the election last fall was about change. It was about rewarding working Americans, not just the wealthiest Americans. Most importantly, it was about ending gridlock and proving that their Government would take action to revive our Nation's economy. Failure to act now is not just failure to act or an easy way to say I am against the deficit, but I won't vote to reduce it—it is a failure that will end any confidence in Government's ability to do anything and a failure that will certainly send the wrong signal to the financial markets.

Mr. Chairman, I urge my colleagues to support the President and this plan to reduce the deficit by $500 billion.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I came to Congress eager to work with President Clinton to create new jobs, stimulate the economy, and reduce the budget deficit. When the newly elected President was talking about middle class tax relief and controlling Government spending, especially through reforms like the line-item veto, I believed we could work together to change America for the better.

Regretfully, the plan being considered today is not a change from the tax-and-spend budgets of the past. Each time Congress has hiked taxes in the past, they have increased spending as well—leading to higher and higher deficits. I will not ask the people in my district to send one more penny to Washington until this Congress gets serious about cutting spending first.

The people of western New York sent me here to do a job—to cut spending first. Through thousands of letters, post cards, and phone calls, they have been reminding me—to cut spending first. Whether they voted for Bill Clinton, Ross Perot, or George Bush, their message was the same—cut spending first.

Instead of cutting spending first, this budget increases taxes $322 billion over 5 years, which is the largest tax increase in the history of this country. Instead of middle class tax relief, this budget adds the new Btu tax on energy which hurts middle class working families in western New York. The energy tax will lead to the loss of an estimated 1,700 jobs in my district alone. Instead of tax fairness, this budget raises taxes on Social Security, which hurts our senior citizens who rely on those benefits.

President Clinton said his economic plan was supposed to be based on job creation and deficit reduction. But this budget accomplishes neither. Instead, it raises taxes and raises spending—and that is the last thing the people of western New York can afford.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the very distinguished chairman of the Republican Conference, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, if anyone in America should understand that breaking campaign promises and raising taxes will not cut the deficit, will not create jobs or will not be tolerated by the American people it should be President Clinton. That is how he got the job in the first place.

Even Jimmy Buffet knows "You've got to learn from the wrong things you done." And we learn from the 1980's. You get deficit reduction and job creation if you grow the private sector and you cut the public sector.

Clinton grows the Government by 20 percent over 5 years, $300 billion. He pays for it by increasing taxes by $300 billion on the American people, and this, in turn, shrinks the private sector.

His plan works, according to his scenario, by virtue of the mystical reduction in interest rates that is going to come through its implementation. However, even that is belied by the imposition, in particular, of the energy taxes which will create an inflationary threat which, when responded to by the Federal Reserve, as it must, will push interest rates up, and the magic will not happen.

KASICH, on the other hand, cuts the Government by $350 billion. It leaves room for the private sector to grow and allows the miracle of free-market job creation to once again assert itself.

President Clinton asks the American people to make even more sacrifice in order to support a growing Government.

JOHN KASICH asks the Government to sacrifice in order to better serve the American people.

To the Democrats in this body, let me suggest to you that if you vote for Clinton, I have for you two words: "Run scared."

To the Republicans, let me suggest to you that you vote, instead, for the Kasich plan, and should the Democrats prevail, I have for you two words, my Republican colleagues: "Buy gold."

And let me say to my good friend CHUCK SCHUMER, for whom I have the greatest respect, the plea you are copping as Republican destruction, or Republican obstructionism, is correctly know as "Democrat ineptness."

The President does not have a problem or an inability to get Republican votes. His problem is he cannot sell this package to the Democrats.

It is your problem, I say to the gentleman from New York [Mr. SCHUMER], not ours.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, Members of the House, a few short days ago, February 17, President Clinton came to this room and said that there was plenty of blame to pass around for why we have this great deficit, but that that was not what he came to do. He came to ask our help and to ask us to act, and tonight we must act.

Many of the Members have said to me that this bill has got difficulties in it, pain in it, things that are not politically attractive.

When you are trying to honestly reduce a deficit that has built now to $4 trillion, to take our deficit from 5 percent of GNP to 2½, there is no human way that that piece of legislation can be politically attractive.

In many ways, this is our admission to the ball park. We are in a new world economy. Many things we must do, research, education, infrastructure, you all know the list, but we will not be able to even get in the park to play the game unless we get this deficit down so that we have the ability to do what needs to be done.

In my view, the Kasich plan is deficient. It does not cut the deficit enough. It is not fair, in my view, because it does not ask the people at the top to pay their fair share, and it does not give the people stuck at the bottom the incentive that the earned-income credit gives the people to get out of welfare and to get into a job, something that all of us desperately want to do.

And so the Clinton plan is better. It is fair. It is comprehensive. It does give us that ticket to the ball park to play the economic game of the future.

Two Sundays ago, I was at my son's graduation. It was a joyous day, and at the end of the ceremony, my wife and I presented him with a small, modest gift. After paying tuition for 4 years, you will all understand why it was modest. But the gift that I want to give him and those like him is to remove this dagger that is pointing at our economic heart. I want him to have a chance to get a good job. I want him to be able to buy a new house and to have low interest rates. I want his economic future to be better than mine, as mine has been better than my mother and father.

That is the American dream, and that is what we must give our children.

For these past 12 years, all of us, Presidents, Congress, leaders in all communities, have been irresponsible. We have been practicing institutional irresponsibility. All of us know that. But especially the irresponsibility that comes from our deficits sends an example to all of our people, and in fact to all of the world, about how we should conduct our business and our lives.

So tonight we must not have promises. We must not have illusions. We must not have gimmicks. We must have real cuts and real revenues to do what each of us in our heart and our mind knows must be done to bring this deficit finally down.

As one man said, "The only measure of what you believe is what you do." If you want to know what people believe, do not read what they write and do not ask them what they believe; just observe what they do.

Tonight, ladies and gentlemen of the House, we will be measured by our acts, not by our words.

May God grant us the wisdom to choose the right course for our country, for our children and for our future.

Vote for this budget.

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Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS]

Mr. STEARNS. Mr. Chairman, we all know that the Clinton economic plan contains the largest tax increase in the Nation's history. The Btu tax will hurt every American family, costing hundreds of thousands of jobs in just the first few years of its existence. President Clinton also has targeted older Americans for a huge tax increase in spite of his repeated promises during the presidential campaign to leave Social Security alone.

On the spending side, we know that the Clinton budget calls for billions of dollars in new social programs and does not eliminate a single spending item. We also know that more fiscally responsible members of the President's own party have been telling him of the disaster that lies ahead if spending is not addressed.

I, like millions of Americans, have been waiting anxiously to hear what agreement the President might reach regarding spending cuts. Unfortunately, these negotiations have been conducted behind closed doors and many of us are voting on an agreement we haven't even seen.

So let me share with my colleagues on both sides of the aisle what the press is reporting this agreement to be. According to the Associated Press, an agreement has been reached that, I quote, "does not guarantee that spending will be restrained, but it pressures the President and lawmakers to do so."

It continues,

> under the procedure, spending targets would be set each year for Social Security, Medicare, and dozens of other benefit programs. If the target is exceeded, the President would have to propose paying for the excess with tax increases, spending cuts or both, or with borrowing, which drives up the deficit.

Let me repeat that, "the President would have to propose tax increases, spending cuts or more borrowing." If I were a betting man, I'd bet on the tax increases and debt increases before the spending cuts.

Is there any good reason to believe that if the President has refused to make real spending cuts in his budget and refused to make real spending cuts during these negotiations, that he will make them this Fall.

The American people took Bill Clinton at his word during the presidential election campaign that he wouldn't raise taxes on the middle class, wouldn't cut Social Security, wouldn't impose an energy tax and would make real cuts in spending. They know now that they have been misled.

Americans have made it clear that they want spending cuts. Think of the breach of trust we will have committed if we approve a package that raises taxes today and raises taxes tomorrow, but never cuts federal spending.

If you want to make it clear to President Clinton that we need spending cuts now, vote no on the budget reconciliation. Spending cuts must come before tax cuts; the American people will not accept anything else.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LAZIO].

Mr. LAZIO. Mr. Chairman, I rise in opposition to the Reconciliation Act and in support of the Kasich alternative.

Mr. Chairman, I take this opportunity to voice my strong opposition to this bill, H.R. 2264, the Omnibus Reconciliation Act of 1993. This modest little piece of legislation comprises 1,497 pages. It was made available only yesterday.

Mr. Chairman, it bears repeating that the most important problem facing the United States is the deficit. Mr. Clinton said he would focus like a laser beam on the economy. It is clear to everyone that he has not followed through on that promise.

I wish he had focused on the economy, but even if he had, the economy is a far more complex phenomenon than the deficit. It's a harder target to hit.

Unfortunately, both the deficit and the economy are easy issues to demagog. Yet one thing is certain: unless we zero in the deficit problem, we have no chance. And, it is equally clear that unless the President leads the charge, we can not accomplish the job.

Regrettably for the country, the President has not picked a laser gun. Instead, he's picked a blunderbuss. We see in this President, a very troubling pattern of behavior. While the deficit hangs over us like a dark cloud, this President is schmoozing with his Hollywood buddies, getting $200 haircuts on Air Force One, holding up commercial aircraft in the process, firing and then unfiring career civil servants in the White House travel office, apparently short-circuiting the chain of command in the Justice Department in the process.

Mr. Chairman, this pattern does not strike me as what the American people have in mind when they think of the President's promise to "reinvent government".

The trouble with the bill before us is that, while it moves in the right direction, it is completely lacking in balance. It incorporates the largest tax increase in our history, but fails to match it with commensurate spending cuts. Estimates are all across the board, but it is clear that the increases in taxes are at least double the cuts in spending.

And, Mr. Chairman, these ratios are conservative because they fail to include the inevitable tax proposals that are waiting to be shot at the American people from the other end of Pennsylvania Avenue in the name of health care. How can this administration talk on the one hand of creating jobs and, at the same time, take away from private businesses the very profits that are the source of new jobs?

Mr. Chairman, that is unacceptable. It is not what the American people expect and it is not what they want. Certainly, it is not what they were promised.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I rise in support of the Clinton proposals.

Mr. Chairman. I rise to support President Clinton's plan to end our National economic lethargy and to cut our huge national deficit. His is a realistic proposal. These goals cannot be achieved only by reducing government expenditures as Mr. KASICH contends. Making reductions of Federal spending to the erroneous extent required for that purpose would cripple not only the service our government provides the American people, but our national economy as well.

I said President Clinton's proposals are realistic. For the first time in 12 years we have a budget that is not dead on arrival. If provides for spending cuts—severe spending cuts. But the services the government needs will continue, our national resources will be protected and augmented.

The tax burden called for by the proposal is fair. It will be heaviest on those who can best afford it, those who prospered so well in the Reagan-Bush years. Sacrifice will be called for.

I believe the American people will accept the challenge because they know it will protect America's future.

Mr. SABO. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 197]

Abercrombie	Clinger	Fish
Ackerman	Clyburn	Flake
Allard	Coble	Foglietta
Andrews (ME)	Coleman	Foley
Andrews (NJ)	Collins (GA)	Ford (MI)
Andrews (TX)	Collins (IL)	Fowler
Armey	Collins (MI)	Franks (CT)
Bacchus (FL)	Combest	Franks (NJ)
Bachus (AL)	Condit	Frost
Baesler	Conyers	Furse
Baker (CA)	Cooper	Gallegly
Baker (LA)	Coppersmith	Gallo
Ballenger	Costello	Gejdenson
Barcia	Cox	Gephardt
Barlow	Coyne	Geren
Barrett (NE)	Cramer	Gibbons
Barrett (WI)	Crane	Gilchrest
Bartlett	Crapo	Gillmor
Barton	Cunningham	Gilman
Bateman	Danner	Gingrich
Becerra	Darden	Glickman
Beilenson	de la Garza	Gonzalez
Bentley	de Lugo (VI)	Goodlatte
Bereuter	Deal	Goodling
Bevill	DeFazio	Gordon
Bilbray	DeLauro	Goss
Bilirakis	DeLay	Grams
Bishop	Dellums	Grandy
Blackwell	Derrick	Green
Bliley	Deutsch	Greenwood
Blute	Diaz-Balart	Gunderson
Boehlert	Dickey	Gutierrez
Boehner	Dicks	Hall (OH)
Bonilla	Dingell	Hall (TX)
Bonior	Dixon	Hamburg
Borski	Dooley	Hamilton
Boucher	Doolittle	Hancock
Brewster	Dornan	Hansen
Brooks	Dreier	Harman
Browder	Duncan	Hastert
Brown (CA)	Dunn	Hastings
Brown (FL)	Durbin	Hayes
Brown (OH)	Edwards (CA)	Hefley
Bryant	Edwards (TX)	Hefner
Bunning	Emerson	Herger
Burton	Engel	Hilliard
Buyer	English (AZ)	Hinchey
Byrne	English (OK)	Hoagland
Callahan	Eshoo	Hobson
Calvert	Evans	Hochbrueckner
Camp	Everett	Hoekstra
Canady	Ewing	Hoke
Cantwell	Faleomavaega (AS)	Holden
Cardin	Fawell	Horn
Carr	Fazio	Houghton
Castle	Fields (LA)	Hoyer
Chapman	Fields (TX)	Huffington
Clay	Filner	Hughes
Clayton	Fingerhut	Hunter
Clement		Hutchinson
Hutto	Michel	Schenk
Hyde	Miller (CA)	Schiff
Inglis	Miller (FL)	Schroeder
Inhofe	Mineta	Schumer
Inslee	Minge	Scott
Istook	Mink	Sensenbrenner
Jacobs	Moakley	Serrano
Jefferson	Molinari	Sharp
Johnson (CT)	Mollohan	Shaw
Johnson (GA)	Montgomery	Shays
Johnson (SD)	Moorhead	Shepherd
Johnson, E. B.	Moran	Sisisky
Johnson, Sam	Morella	Skaggs
Johnston	Murtha	Skeen
Kanjorski	Myers	Skelton
Kaptur	Nadler	Slattery
Kasich	Natcher	Slaughter
Kennedy	Neal (MA)	Smith (IA)
Kennelly	Neal (NC)	Smith (MI)
Kildee	Norton (DC)	Smith (NJ)
Kim	Nussle	Smith (OR)
King	Oberstar	Smith (TX)
Kingston	Obey	Snowe
Kleczka	Olver	Solomon
Klein	Ortiz	Spence
Klink	Orton	Spratt
Klug	Owens	Stearns
Knollenberg	Oxley	Stenholm
Kolbe	Packard	Stokes
Kopetski	Pallone	Strickland
Kreidler	Pastor	Studds
Kyl	Paxon	Stump
LaFalce	Payne (NJ)	Stupak
Lambert	Payne (VA)	Sundquist
Lancaster	Pelosi	Swett
Lantos	Penny	Swift
LaRocco	Peterson (FL)	Synar
Laughlin	Peterson (MN)	Talent
Lazio	Petri	Tanner
Leach	Pickett	Tauzin
Lehman	Pickle	Taylor (MS)
Levin	Pombo	Taylor (NC)
Levy	Pomeroy	Tejeda
Lewis (CA)	Porter	Thomas (CA)
Lewis (FL)	Portman	Thomas (WY)
Lewis (GA)	Poshard	Thompson
Lightfoot	Price (NC)	Thornton
Linder	Pryce (OH)	Thurman
Lipinski	Quillen	Torkildsen
Livingston	Quinn	Torres
Lloyd	Rahall	Torricelli
Long	Ramstad	Towns
Lowey	Rangel	Traficant
Machtley	Ravenel	Tucker
Maloney	Reed	Unsoeld
Mann	Regula	Upton
Manton	Reynolds	Valentine
Manzullo	Richardson	Velazquez
Margolies-Mezvinsky	Ridge	Vento
	Roberts	Visclosky
Markey	Roemer	Volkmer
Martinez	Rogers	Vucanovich
Matsui	Rohrabacher	Walker
Mazzoli	Romero-Barcelo (PR)	Walsh
McCandless	Ros-Lehtinen	Washington
McCloskey	Rose	Waters
McCollum	Rostenkowski	Watt
McCrery	Roth	Weldon
McDade	Roukema	Wheat
McDermott	Rowland	Whitten
McHale	Roybal-Allard	Williams
McHugh	Royce	Wilson
McInnis	Rush	Wise
McKeon	Sabo	Wolf
McKinney	Sanders	Woolsey
McMillan	Sangmeister	Wyden
McNulty	Santorum	Wynn
Meehan	Sarpalius	Yates
Meek	Sawyer	Young (AK)
Menendez	Saxton	Young (FL)
Meyers	Schaefer	Zeliff
Mica		Zimmer

□ 2005

The CHAIRMAN. Four hundred twenty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

The gentleman from Ohio [Mr. KASICH] has 5 minutes remaining, and the gentleman from Minnesota [Mr. SABO]

has 5 minutes remaining, and the Chair will be liberal with its time allocation.

I want to compliment the Members for the decorum during this debate. I know it is a very emotional debate, and I compliment the Members for their decorum.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I rise in opposition to the Democrat Kevorkian jobs suicide bill.

Mr. Chairman, the day of reckoning has arrived. This is my seventh year as a Member of this House, and for all that time I have heard my colleagues on the other side of the aisle blame all of our woes on Presidents Reagan and Bush. "Twelve years of Republican rule, 12 years of neglect, 12 years of trickle-down, 12 years of tax cuts for the wealthy." The Democrats who controlled this House for those 12 years were more than happy to run for cover. The Democrats who run the Congress, pass the laws, and spend the money, were more than happy to run and hide.

Well, today marks the turning point. No longer can the Democrats blame Ronald Reagan and George Bush, for today we begin the Clinton economic era in America.

Our Democratic colleagues have the votes to pass the Clinton tax increases. You have the votes to tax thousands of American senior citizens. We cannot stop you. You have the votes to increase energy taxes on every middle-class family. We cannot stop you. You have the votes to tax small businesses, and kill jobs in the private sector. We cannot stop you.

So pass your plan. But remember what you do here. After today, you will have no one else to blame. Ronald Reagan and George Bush won't cast one vote here today. No more of the blame game. It is your President, it is your plan. Pass it, and accept the consequences.

I take no pleasure in this. I take no pleasure in seeing this House pass a plan that will kill jobs, drive up inflation, hurt businesses, and squeeze the middle class. But that is the way you wanted it—you closed the Ways and Means Committee so you could devise your tax schemes in secret, and you gagged our side with closed rules.

And make no mistake. This tax hike bill will throw people out of work. I do not need the Tax Foundation to tell me that we are killing jobs here today. I know that just by looking at my neighboring State—New Jersey. In 1990, New Jersey passed a tax hike bill that socked it to families and businesses, just like this bill does. And look at New Jersey today—an unemployment rate of more than 9 percent, 400,000 jobs lost.

That is the primrose path you are leading us down today, my Democratic friends. We will remember this vote. We will remember this vote when unemployment goes up, when inflation goes up, when spending goes up, when the national debt goes up. No more blaming Reagan and Bush, no more self-righteous chest-thumping, no more finger pointing at the Republican White House. For today, you run the show.

But even still, most Democrats do not want to vote for this bill. Even most Democrats cannot stomach a $328 billion tax increase. So the head-counters and vote buyers swung into action. All day cajoling sessions, arm-twisting calls from the White House, promises and threats thrown around in equal measure.

Buy a few votes with an exemption for home heating oil, buy a few votes with a cave-in on grazing fees. Then, when it really got close, six or seven votes with a White House Executive order on peanuts, and assorted other little trinkets for those who held out for more and more.

Yes, the Democrats are in charge today, and votes are for sale.

Why has it been so hard for the Democrats to round up their own votes? Because now the American people know what this Clinton tax hike really means for America. And the more they know about the President's plan the less they like it. That is why this President has the lowest approval ratings of any elected President since World War II. That is why Democratic candidates across the country are running away from the President. That is why the President has not even been asked to campaign in Texas, where Senator KRUEGER is 15 points behind. This plan is a loser, and the American people know it.

The Democrats tell us that gridlock is the disease that afflicted America in 1992. Well let me tell you something, my colleagues. When this is all over, and these taxes hit every family and every business in America, the American people will like the gridlock disease a whole lot better than the Clinton tax-and-spend cure.

But all of that matters very little here in the House. For at the end of the day, the Democrats will pass the Clinton tax hikes, the largest in American history. They will exorcise at last the ghosts of the much-hated Ronald Reagan and George Bush, and they will usher in the dark tax-and-spend era of Clintonomics. And as the last votes are counted, the Democrats will congratulate themselves, calling it bold leadership, and saying it took great courage.

But the American people will see it differently. You see, it is not leadership when you zap middle-class taxpayers so you can jack up Government spending. And it takes no courage to spend other people's money.

Mr. Chairman I rise today to oppose the Omnibus Budget Reconciliation Act of 1993. Although I support the important goal of reducing the deficit, I cannot support the Clinton administration's anachronistic, misguided tax-and-spend approach. Instead of increasing taxes on every American, we should first eliminate wasteful Government programs and cut Federal spending. In particular, I am concerned about the administration's proposed energy tax.

The broad-based energy tax, as reported by the Committee on Ways and Means, my possibly end or even reverse the current economic recovery. It will not only damage our Nation's industrial competitiveness in world markets, but will also devastate millions of families struggling to live the American dream. If one just cursorily examines the energy tax amendments adopted by the committee, it is clear that I am not the only one concerned about its impact on businesses and families.

The Btu tax is basically flawed. An amendment here or there will not make it good legislation. In fact, the Committee on Ways and Means adopted certain provisions that do not make much sense. As reported, this bill now favors ore-based metals production over recycling. This error is in a bill that is intended to be environmentally beneficial.

Exemptions from the Btu tax were provided to integrated steel producers and to aluminum producers, but not to electric furnace steel producers. Integrated steel mills are those that make steel from iron ore and use coal to make coke for their blast furnaces. Few outside of the industry, however, understand that almost 40 percent of the steel produced today is made by recycling scrap in electric furnaces. There are about 120 electric furnace steel plants in 95 congressional districts in 35 States. These companies provide employment for approximately 75,000 steel workers.

Many are also unaware of the intense competition for markets not only between the integrated and electric furnace steel producers, domestic and foreign, but also between steel and aluminum. I doubt whether any of us really wants to upset the delicate balance of the market. But this legislation has us accomplishing just that.

While I have no electric furnace producers in my district, a number of the employees of Lukens Steel Co. in Chester County are my constituents. Lukens has neither coke ovens nor blast furnaces. It consumes very little coal and requires no virgin iron ore. The new steel Lukens makes in its electric arc furnaces is composed almost totally from scrap metal that would otherwise end up scattered on the landscape or unnecessarily filling scarce landfill space. In fact, Lukens tells me that over the past several weeks they have received five truckloads of cans recovered from municipal waste sites in Maine. This one company recycles almost 30,000 tons of tin cans annually. Do we really want to discriminate against this kind of recycling? Lukens has 1 electric furnace that recycles up to 800,000 tons of scrap metal a year—everything from tin cans to automobiles and railroad cards. Lukens also owns Washington Steel, which produces high value stainless steel by recycling scrap metal in electric furnaces.

The electric furnace steel industry in this country consumes more than 37 million tons of scrap metal each year, including the scrap from 9 million automobiles junked annually. The scrap recycled by the entire steel industry each year is double the amount of all other recycled materials combined. Recycling is also energy efficient when compared to the production from ore of either steel or aluminum.

How does this bill discriminate? The aluminum industry requested that a portion of its electricity consumption be exempted from the Btu tax. In addition, the ore-based steel producers requested an exemption for coke, a source of carbon and heat used in their steelmaking process. These requests were approved, but a request supported by the House steel caucus leadership for a similar exemption for the electricity used to recycle metal in the furnaces of electric furnace steel producers was not. To compound this discriminatory treatment, the bill would raise the base Btu tax rate from 25.7 cents per million Btu to 26.8

cents per million Btu in order to cover the costs of the exemptions available to the aluminum and integrated steel producers.

Mr. Chairman, because the members of the Committee on Ways and Means attempted to fix the energy tax, we are now in the ludicrous position of being asked to favor metals production that is based on digging more ore out of the ground and discriminating against the recycling of metals and the conservation of natural resources.

Representatives from the electric furnace steel industry have expressed serious concern about the impact of the border adjustment amendment—part 5, sections 4456 and 4457—on their stainless steel business. This is of particular concern to Pennsylvania because approximately 70 percent of the stainless steel produced is melted in Pennsylvania—incidentally also in electric furnaces that consume scrap metal. I have been told that the available data leads one to believe that stainless steel producers will be faced with a new tax of approximately $7.50 per ton based on Btu consumption in production. We are now proposing an addition of $1.50 to $2 per ton tax on the ferroalloy minerals that must be imported for stainless production. Costs of production are then raised from $9.50 to $10 per ton, further diminishing their competitiveness domestically with other metals and with imports, which will be taxed at a rate of only approximately $4.50 per ton.

Mr. Chairman, these are just two examples of serious flaws with the Btu tax, as it affects just one industry, that confirms my belief that we are being asked to enact a measure that will be detrimental to our overall economic well being. I urge my colleagues to defeat the Omnibus Budget Reconciliation Act.

Mr. KASICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to duly note for the Record that, as the gentleman from Georgia [Mr. GINGRICH] arises to speak, that this, just like the budget resolution that we offered, is one fully supported by the leadership of the Republican Party.

With that, Mr. Chairman, I yield the balance of my time to the very distinguished Republican whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. First, I want to take just a moment to thank our Chairman of the Committee of the Whole, the gentleman from Pennsylvania [Mr. MURTHA], who I think has given dignity and stature to all of us in the way he has presided today, and I want to thank him for that.

Second, I want to commend the very distinguished chairman and ranking member, the gentleman from Minnesota [Mr. SABO] and the gentleman from Ohio [Mr. KASICH]. I think we can all be proud of the way in which they have worked together today to give the House a chance to work its will, and I commend them for the job they have done.

Third, I want to commend the last speaker, my friend, the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and every Member on both sides who have spoken today, and I say to my colleagues, "If you have had a chance to watch at all on the floor or on television, this kind of direct, forceful debate on principle is what the House of Representatives is all about."

Finally, I would like to thank our leader, the gentleman from Illinois [Mr. MICHEL], for allowing me to close for our side because I think it is an honor in a debate of this importance to have a chance to speak for my side.

Mr. Chairman, what we face is a genuine, historic, legitimate difference in principle. These next votes are about our vision of the future, our understanding of America and our belief in the lessons of history.

The Clinton plan, which I respect, props up the past. It raises $325 billion in new taxes to pay for a bigger welfare state.

□ 2010

It starts $40 billion in new entitlements, as it should, because it believes in the welfare state. Yet the simple fact is, the welfare state has failed. Look at every local television news program in every big city. Here in Washington, DC, during the time when three Americans were killed in Somalia in a combat zone, 48 Americans were killed in our National Capital. Clearly the welfare state has failed.

The tragic fact is that we cannot maintain civilization when 12-year-olds have babies, 15-year-olds kill each other, 17-year-olds are dying of AIDS, and 18-year-olds get diplomas but cannot read. The welfare state has failed.

The Clinton plan raised taxes to prop up this welfare state, and in raising taxes it hurts all Americans. Our parents and grandparents will pay higher taxes on their Social Security; not at the millionaire level, but at $25,000 for singles, and, a very antifamily standard, at only $32,000 per couple.

The Clinton tax bill is remarkably very anti-family in the way it increases the marriage penalty compared to two single taxpayers.

Every American will be hit by the energy tax, and jobs will be killed. In St. Louis, the majority leader's district, they will lose 1,328 jobs, according to the Tax Foundation, and Missouri will lose 9,324 jobs for the State, and that is without a beer tax increase.

In Washington State, the Spokane area will lose 809 jobs, even after the aluminum plant was exempted, and Washington State will lose 8,317 jobs.

In my district we will lose 766 jobs, and Georgia as a whole will lose 11,073 jobs. And those job losses are just for the energy tax. Other taxes will kill even more jobs. Yet the greatest tragedy is the failure to change directions away from the welfare state.

In Russia, Yeltsin knows they need less government and less red tape. In France, and I cite today's Washington Post, which reports on page 1, "France to sell its control of 21 key firms as they learn the lesson that socialism and government control fails."

Only in America is there an effort for higher taxes and a bigger welfare state. And now there is talk of a 9-percent payroll tax for health care on top of all these taxes.

The Kasich budget is a first step towards real change. It cuts spending first. It known Government is too big and spends too much. It is committed to protecting the family budget instead of raising taxes on families to protect the Government budget, a vote for a real change and a step toward smaller, affordable Government.

And yet even the Kasich budget, smaller, even the Kasich budget, is $7 trillion 841 billion over the next 5 years. And surely this Congress, with $7 trillion 841 billion in outlays without tax increases, should be able to find enough. And that is the small budget compared to the Clinton budget.

These votes only last 15 minutes, but taxes can last a lifetime.

Let me close by commending the Democrats who have had the courage to stand up for their constituents and who plan to vote against these tax increases. I sympathize. It is not easy. It is never easy to stand up in a situation involving your own party.

In 1982 I joined people like Dick Cheney, TRENT LOTT, and Jack Kemp, and we opposed President Reagan's tougher tax increase, which President Reagan said later was the worst single mistake of his administration.

In 1990, under tremendous pressure, we stood up against President Bush, and he said at the convention, 2-years-too-late, that it was the largest single mistake of his administration.

I simply urge every Member, think of the country, think of the patterns you see going on around the world. Vote with the tide of history, vote for a reformed smaller Government, vote for job creation and take-home pay, vote against bigger Government, higher taxes, poorer families, kill jobs, and a new recession.

The choice is up to each of us, the burden is on each of our shoulders. Tonight, here, we speak for America.

Mr. SABO. Mr. Chairman, before yielding time, I join the minority whip in recognizing the incredibly good job the gentleman from Pennsylvania has done chairing this debate. We all appreciate it.

Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. FOLEY], the distinguished Speaker of the House.

Mr. FOLEY. Mr. Speaker, we are in a chamber where we have heard a long, and I think generally very civilized and responsible debate. It takes me back to a time 2 years ago when we had a very important debate on a similarly crucial question for the country, because,

in a way, the decision as to whether or not to take the country into war was no less momentous than the decision we make tonight.

We have in this Chamber done many things that were easy to do, that were popular to do, that were comfortable to do. But we seldom make valuable and lasting changes by taking easy votes, comfortable votes, politically popular votes.

I can remember when President Reagan came and asked for his economic program to be adopted. It was a program that called for giving taxes back to people, and encouraging them to vote for tax reductions. And it came with a promise that if those deep reductions in taxes could only be accomplished, that in a matter of a few years, a balanced budget would be achieved.

A distinguished Member of the other body, Senator Baker, called it, at the time, a riverboat gamble; and it was a gamble that many Members took, but it was a gamble that the country lost. The country suffered recession, sharp increases in defense spending, a year by year reduction in revenues, a rising deficit outpacing anything that had been seen in previous years, and a burgeoning national debt that is now an all-too-sad fact of our national life.

That was a relatively easy and popular decision, but it was not a good one, in my judgment. It was not one that served the country well.

There are easy votes that we can take, but they are not the votes that, generally, we think are the wisest votes we cast, the best votes we cast, the most honest votes we cast.

Tonight we have a difficult task, because this is not an easy bill to vote for. The President's plan is not comfortable, and it is not universally popular in many areas, and in many respects.

When the President stood here in this chamber on February 17, he asked the country to do difficult things, to do things that would speak for the future, a future, in which we would have more jobs, more opportunity, and a better future for our children, but first we would have to go through the difficult task of reducing a deficit that had grown relentlessly, year after year after year.

The President's plan does that. It is fair, it is responsible, it is effective, and it is real. It is real!

This bill, the President's plan, contains the most effective budget controls ever put in a Budget Reconciliation Act, both in the control of discretionary spending an in the constant review of entitlement spending.

The plan offered by the gentleman from Ohio [Mr. KASICH] does not meet the deficit targets over 5 years. The deficit would be higher after 5 years than the committee bill. And it does not provide any specific roadmap of how those reductions would be achieved.

□ 2020

In that sense, it is easier. But I hope that the Members of this Congress tonight will realize that now we have to take the difficult road back, but it is a road marked by our experience, by what we know has to be done, by a clear-eyed determination that we are going to achieve the goals of this legislation in reducing the deficit by $500 billion over the next 5 years, with annual reviews, with a clear determination that the deficit will be reduced, and that will result in the opportunity for investment and enhancement of our economy.

In the long term, this will serve all of our country well.

Of course, there is another option, not just the option of adopting the Kasich proposal, the Kasich substitute, or the committee bill. There is an option to do nothing, to do nothing, to let the status quo continue, to allow the public debt to go on to another $1.5 trillion in the next 5 years, to allow the national product to go down by $100 billion. We can do nothing, but that would be the greatest of all offenses to the American people.

Winston Churchill said, of a government in this time, that it "had decided only to be undecided, resolved to be irresolute, adamant for drift, solid for fluidity, all powerful to be impotent." That must not be the judgment of this House tonight.

That is not why we were elected, any of us. That is not what our people want, any of them. The worst thing we could do, the worst consequence is to do nothing.

This is a time for us to be determined, to serve the people in a way that is not difficult and sometimes most unpopular, but always to serve in the most responsible way, to consider the interests of their families, to consider the interests of their children, to consider the interests of their future, to support work, to encourage investment, to lay the foundation for a better life for them and for the next generation.

It will be remembered tonight what we do in this Chamber. We will remember it, yes. We will remember it. And those of us who support the committee bill will be proud of our action, proud of the responsible position we take.

This is a time for our country. This is a time to stand and deliver. This is a time to justify your election and the confidence the American people have given in sending you to this Chamber to carry on their business.

Defeat the Kasich proposal. Support the President's plan.

Mr. OXLEY. Mr. Chairman, I rise in support of the substitute in the form of an amendment, offered by Representative KASICH, of my home State.

Representative KASICH's bill, the Republican substitute, would reduce the deficit by cutting spending and deriving revenues from areas other than higher taxes. The Republican substitute would derive $7.2 billion by authorizing the Federal Communications Commission to auction newly emancipated radio spectrum. For years, the benefit of the radio spectrum has been overlooked by Congress because too many special interests would have had to pay money for what was previously free. These same special interests participate in industries which generate billions of dollars annually.

The present lottery system of spectrum allocation was originally created in order to expedite the assignment process, reduce the size of the bureaucracy, lower Government spending, and eliminate unnecessary regulations. However, it spawned a cottage industry of lawyers and engineers who fabricate applications meeting the FCC requirements with design drawings and financial commitments from banks. These people usually have no intention of exploring emerging technologies. Instead, they sell their free new allocation of spectrum for millions of dollars in profits. At a time when curative measures for the budget deficit predominate policy concerns, it seems foolish to give away a valuable resource such as the spectrum reserve.

Furthermore, the auction method would create a more efficient method of distribution and use. First, the language in the substitute mandates that the FCC weigh the technological benefits of the new proposed applications. Second, it prohibits warehousing and speculation. Finally, the competitive bidding guarantees that the applicants will refine their proposals to yield the greatest results.

These spectrum auctions would not favor large companies over small. It would protect the public service users such as emergency services and amateur radio operators from the competitive bidding process. It also exempts broadcasters from the procedures for license renewals.

Mr. Chairman, I think that this is a much better method to raise revenue than by passing the largest tax increase in the history of our Nation, as the President wants. A quick review of the administration's budget proposal conveys a very gloomy and discouraging message to the American people.

It says do not be productive. The tax rates on those who are the most productive members of society will be increased by 35 percent or more.

It says do not save. Tax rates on investment earning will be increased by 35 percent or more. Incentives to contribute to pensions for retirement will be slashed. Estate taxes on lifetime savings will be increased.

It says do not compete. Tax rates on the most profitable corporations will go up 1 percentage point. Taxes on successful multinational businesses will go up because of provisions affecting foreign subsidiaries and international operations. Leading edge U.S. companies will suffer because their operations in U.S. possessions will be heavily taxed.

The President's proposal says do not manufacture exports in the United States. The energy tax will have a heavy impact on U.S. manufactured exports. U.S. manufactured exports will bear the tax, while foreign products will not.

The President's proposal says do not pay taxes. The tax package restores the old incen-

tives to seek tax shelters. Upper income individuals will defer income, buy tax-free bonds, work less, and take more tax-free fringe benefits.

Mr. Chairman, I think that the people need to hear positive messages in these troubled times. The President's proposal does not convey this message. The Republican substitute will convey this positive message. The people want to see reduced spending and new nontax revenue sources. This is what the Republican substitute does. The President's proposal, Mr. Speaker, is the same old tax-and-spend philosophy, and it just won't work any more.

Mr. MCCANDLESS. Mr. Chairman, I rise in support of both the attempted en bloc amendment and the KASICH substitute. And I urge my colleagues to support these measures which provide today's only true opportunities for spending cuts, deficit reduction and budget reform.

The KASICH en bloc included an amendment I had intended to offer at last week's Government Operations Committee markup of the Budget Enforcement Act. Unfortunately, when it became clear that the majority did not have the votes needed to pass a leadership-approved bill, the measure was pulled and our Members were denied the opportunity to consider budget reform legislation.

Similarly, I waited for 9 hours yesterday for the chance to argue the merits of the debt buy-down language before the Rules Committee. My amendment was supported by every Republican member of that committee, yet without further ado, the amendment was rejected by the Committee's Democrat majority.

Mr. Chairman, I can certainly understand the majority's reluctance to permit the Members of this House the opportunity to debate the merits of their deficit reduction trust fund on national TV. Consider the comments of Deputy OMB Director Alice Rivlin who called a similar trust fund proposal just a gimmick. Or those of House Budget Committee Chairman MARTIN SABO who recently noted of a like measure, "I don't think it changes the substance of anything." House Ways and Means Committee Chairman DAN ROSTENKOWSKI disparaged a similar bill on NBC's "Today" show, while CBO Director Robert Reischauer reaffirmed the plan's flaws when he stated that, "saying that deficit reduction has occurred is different from achieving a particular deficit reduction target."

Given the number of well-known Democrat budget scholars who are denouncing the type of all show—no go trust fund which is being self-executed into this bill, I don't wonder at the majority's reluctance to allow its debate and amendment today. But the American people deserve more.

My amendment would provide the opportunity for true deficit reduction by offering Members a clear-cut choice between the Democrat's trust fund idea and the widely acclaimed Walker-Smith Debt Buy-Down Act. It offers a deficit reduction plan acknowledged by both OMB and CBO to provide real cuts and real savings.

My amendment provides a three-pronged approach to deficit reduction by: First, permitting taxpayers to designate up to 10 percent of their total taxes for deficit reduction; second, requiring Congress to enact spending cuts equal to the total amount of taxpayer set aside; and third, enforcing those spending reductions by imposing a sequestration equal to the amount of overspending.

According to both OMB and the trendline from CBO, this amendment would enable the Government to stop deficit spending by the year 1999. Additionally, the national debt would be eliminated by the year 2009 even with a 9.55 percent increase over baseline fiscal year 1994 spending.

Mr. Chairman, in denying the Members of this body the opportunity to choose between the majority's trust fund and my buy-down amendment, the leadership has also denied us the chance for true deficit reduction. I urge those of my colleagues who support real reform to defeat this bill so that we can bring it back with serious budget reforms.

Mr. PORTER. Mr. Chairman, let me start by saying how unconscionable it is for the Rules Committee—your Rules Committee—to fashion a rule that allows the minority a total of 90 minutes of debate time on a measure more far-reaching than any we have considered during the last 10 years. Four or five hours would have been fair and equitable; 90 minutes is ridiculous and unfair.

But, of course, this is only the beginning of the inequities of this rule, which allows the minority one substitute amendment only, and neither any other amendment nor even a motion to recommit with instructions. This is a cowardly and craven rule and the majority should be embarrassed in a free country to offer it.

Beyond the rule, however, lurks a far more ominous threat, not just to the minority but to every thinking American: a budget reconciliation package so onerous in the implications for the future of our children and grandchildren it should make all of us shudder in apprehension.

The President campaigned as a new Democrat, one who would go to Washington, push aside the usual tax-and-spend policies of his party, and put deficit reduction at the top of his agenda. Promised was a deficit reduction package calling for new taxes, yes, but also promising $2 of spending cuts for every $1 of tax increases, thus guaranteeing that every cent of new taxes would go to bring down the deficit, not for new or increased spending.

Mr. Chairman, I could have supported such a package. I believe the Nation's greatest problem, the one that makes for a low-growth, high unemployment economy and robs generations following of their future is ongoing, huge deficits. And let's be honest: neither party has made deficit reduction and balanced budgets a sufficient priority. There is enough blame to go around. Nor have I automatically rejected tax increases. As a matter of fairness, as a matter of every American participating in bringing the budget under control, I believe the people I am privileged to represent would be more than will to give of their hard-earned resources to help their country. With one ironclad guarantee.

My taxpayer protection amendment would require that each year the deficit come down by an amount not less than the new taxes imposed or the taxes are repealed automatically and immediately.

Mr. Chairman, if you cannot get the message of the American people to cut spending first, at least you ought to be able to guarantee them that every penny of the new taxes you are requiring them to pay will go to reduce the deficit, not for increased spending. This is the ironclad guarantee they and I need. By refusing to allow my amendment to be even considered on the House floor, Mr. Speaker, and offering instead a phony, unenforceable trust fund, you have ensured my hostile opposition to this package because there is no guarantee.

The budget reconciliation package you have put forward in fact, does just the opposite. It imposes $2 of new taxes matched by only $1 of spending cuts which guarantees that most of the new tax revenues will go to support increased spending, not to reduce the deficit. Add to this fact that there is no assurance that even the meager spending cuts targeted for the out years will ever take place and you have a package that will mean disaster for the American economy. Clearly, the concern that many in our country have that huge, permanent tax increases will be imposed on them and 4 years hence we will have deficits larger than ever is, tragically, well placed.

How did the package end up in this unfortunate form? President Clinton came to Washington and almost immediately made two serious mistakes? First, he failed to communicate in any meaningful way with Republicans, perhaps reflecting the one party nature of the State he served as governor. Obviously, coming to Republicans to ask for their cooperation in achieving spending cuts would have set a good working tone, but instead the President ignored us, leading, one could argue, to the amazing degree of cooperation the Senate Republican leader was able to achieve in holding Senate Republicans together in opposition to the President's economic stimulus package. This ignoring of Republicans, especially House Republicans, has continued to this day, and has made easier the job of the loyal opposition that might otherwise have fractured, at least to some degree.

Second, the President, perhaps understandably, fears becoming another Jimmy Carter, an ineffective, irrelevant outsider. This fear, in my judgment has led him to seek accommodation with the members of his party at practically any price, moving away from many of his campaign promises as objections were raised by his Democrats in the House or Senate. The difficulty with this approach to governance is that the tone, once set, is hard to back away from. The modus operandi of promising what Members of Congress want in return for their support can lead to only one result: you are rolled, and this President has been rolled by his congressional Democrats. The liberals have, after all, spent 12 frustrating years under the Reagan and Bush administrations and have a huge supply of pent-up program wishes, many of which involve new spending. When you want to reduce the deficit, accommodating the spending plans of the Democratic Congress, instead of going over their heads to the American people and working to control spending can be, and in this case is, in my judgment, fatal.

For all of these reasons, the budget reconciliation package has come out stood on its

head, with deficit reduction subordinated to new spending projects, now termed "investments." The promise of addressing the needs of our economy by cleaning up our fiscal act and putting our house in order have been needlessly doomed, and support that could have been there with a responsible program and wise politics has been lost.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. KASICH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 295, not voting 5, as follows:

[Roll No. 198]

AYES—138

Armey	Grams	Moorhead
Bachus (AL)	Greenwood	Myers
Baker (CA)	Gunderson	Nussle
Baker (LA)	Hansen	Oxley
Ballenger	Hastert	Packard
Bartlett	Herger	Paxon
Barton	Hoagland	Pombo
Bilirakis	Hobson	Porter
Bliley	Hoekstra	Portman
Blute	Hoke	Pryce (OH)
Boehner	Horn	Quillen
Bonilla	Houghton	Quinn
Bunning	Hunter	Ramstad
Buyer	Hutchinson	Ravenel
Calvert	Hyde	Ridge
Camp	Inglis	Rohrabacher
Castle	Inhofe	Royce
Clinger	Istook	Santorum
Coble	Johnson (CT)	Saxton
Collins (GA)	Johnson, Sam	Schiff
Cooper	Kasich	Sensenbrenner
Cox	Kim	Shaw
Crane	King	Shays
Crapo	Klug	Shuster
Cunningham	Knollenberg	Skeen
DeLay	Kolbe	Smith (MI)
Dickey	Kyl	Smith (NJ)
Dooley	Lazio	Smith (TX)
Doolittle	Levy	Snowe
Dreier	Lewis (CA)	Solomon
Dunn	Lewis (FL)	Sundquist
Everett	Linder	Talent
Ewing	Livingston	Tanner
Fawell	Manzullo	Tauzin
Fields (TX)	McCandless	Taylor (MS)
Fish	McCollum	Thomas (CA)
Franks (CT)	McCrery	Thomas (WY)
Franks (NJ)	McDade	Torkildsen
Gallegly	McHugh	Upton
Gallo	McKeon	Walker
Gekas	McMillan	Walsh
Gilchrest	Meyers	Weldon
Gilman	Mica	Wolf
Gingrich	Michel	Young (FL)
Goodling	Miller (FL)	Zeliff
Goss	Molinari	Zimmer

NOES—295

Abercrombie	Bentley	Brown (OH)
Ackerman	Bereuter	Bryant
Allard	Berman	Burton
Andrews (ME)	Bevill	Byrne
Andrews (NJ)	Bilbray	Callahan
Andrews (TX)	Bishop	Canady
Applegate	Blackwell	Cantwell
Bacchus (FL)	Boehlert	Cardin
Baesler	Bonior	Carr
Barcia	Borski	Chapman
Barlow	Boucher	Clay
Barrett (NE)	Brewster	Clayton
Barrett (WI)	Brooks	Clement
Bateman	Browder	Clyburn
Becerra	Brown (CA)	Coleman
Beilenson	Brown (FL)	Collins (IL)
Collins (MI)	Kanjorski	Rahall
Combest	Kaptur	Rangel
Condit	Kennedy	Reed
Conyers	Kennelly	Regula
Coppersmith	Kildee	Reynolds
Costello	Kingston	Richardson
Coyne	Kleczka	Roberts
Cramer	Klein	Roemer
Danner	Klink	Rogers
Darden	Kopetski	Romero-Barcelo (PR)
de la Garza	Kreidler	Ros-Lehtinen
de Lugo (VI)	LaFalce	Rose
Deal	Lambert	Rostenkowski
DeFazio	Lancaster	Roth
DeLauro	Lantos	Roukema
Dellums	LaRocco	Rowland
Derrick	Laughlin	Roybal-Allard
Deutsch	Leach	Rush
Diaz-Balart	Lehman	Sabo
Dicks	Levin	Sanders
Dingell	Lewis (GA)	Sangmeister
Dixon	Lightfoot	Sarpalius
Duncan	Lipinski	Sawyer
Durbin	Lloyd	Schaefer
Edwards (CA)	Long	Schenk
Edwards (TX)	Lowey	Schroeder
Emerson	Machtley	Schumer
Engel	Maloney	Scott
English (AZ)	Mann	Serrano
English (OK)	Manton	Sharp
Eshoo	Margolies-Mezvinsky	Shepherd
Evans	Markey	Sisisky
Faleomavaega (AS)	Martinez	Skaggs
Fazio	Matsui	Skelton
Fields (LA)	Mazzoli	Slattery
Filner	McCloskey	Slaughter
Fingerhut	McCurdy	Smith (IA)
Flake	McDermott	Smith (OR)
Foglietta	McHale	Spence
Foley	McInnis	Spratt
Ford (MI)	McKinney	Stark
Ford (TN)	McNulty	Stearns
Fowler	Meehan	Stenholm
Frank (MA)	Meek	Stokes
Frost	Menendez	Strickland
Furse	Mfume	Studds
Gejdenson	Miller (CA)	Stump
Gephardt	Mineta	Stupak
Geren	Minge	Swett
Gibbons	Mink	Swift
Gillmor	Moakley	Synar
Glickman	Mollohan	Taylor (NC)
Gonzalez	Montgomery	Tejeda
Goodlatte	Moran	Thompson
Gordon	Morella	Thornton
Grandy	Murphy	Thurman
Green	Murtha	Torres
Gutierrez	Nadler	Torricelli
Hall (OH)	Natcher	Towns
Hall (TX)	Neal (MA)	Traficant
Hamburg	Neal (NC)	Tucker
Hamilton	Norton (DC)	Unsoeld
Hancock	Oberstar	Valentine
Harman	Obey	Velazquez
Hastings	Olver	Vento
Hayes	Ortiz	Visclosky
Hefley	Orton	Volkmer
Hefner	Owens	Vucanovich
Hilliard	Pallone	Washington
Hinchey	Parker	Waters
Hochbrueckner	Pastor	Watt
Holden	Payne (NJ)	Waxman
Hoyer	Payne (VA)	Wheat
Huffington	Pelosi	Whitten
Hughes	Penny	Williams
Hutto	Peterson (FL)	Wilson
Inslee	Peterson (MN)	Wise
Jacobs	Petri	Woolsey
Jefferson	Pickett	Wyden
Johnson (GA)	Pickle	Wynn
Johnson (SD)	Pomeroy	Yates
Johnson, E.B.	Poshard	
Johnston	Price (NC)	

NOT VOTING—5

Archer	Henry	Young (AK)
Dornan	Underwood (GU)	

□ 2041

Mr. DUNCAN changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994, as modified pursuant to House Resolution 186, pursuant to House Resolution 186, he reported the bill, as modified, back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 213, not voting 1, as follows:

[Roll No. 199]

YEAS—219

Abercrombie	Deutsch	Jefferson
Ackerman	Dicks	Johnson (GA)
Andrews (ME)	Dingell	Johnson, E.B.
Andrews (TX)	Dixon	Johnston
Applegate	Dooley	Kanjorski
Bacchus (FL)	Durbin	Kaptur
Barcia	Edwards (CA)	Kennedy
Barlow	Engel	Kennelly
Barrett (WI)	English (AZ)	Kildee
Becerra	Eshoo	Kleczka
Beilenson	Evans	Klink
Berman	Fazio	Kopetski
Bevill	Fields (LA)	Kreidler
Bilbray	Filner	LaFalce
Bishop	Fingerhut	Lambert
Blackwell	Flake	Lancaster
Bonior	Foglietta	Lantos
Borski	Foley	LaRocco
Boucher	Ford (MI)	Levin
Brewster	Ford (TN)	Lewis (GA)
Brooks	Frank (MA)	Lloyd
Brown (CA)	Frost	Lowey
Brown (FL)	Furse	Manton
Brown (OH)	Gejdenson	Markey
Bryant	Gephardt	Martinez
Byrne	Gibbons	Matsui
Cantwell	Glickman	Mazzoli
Cardin	Gonzalez	McCloskey
Carr	Gordon	McCurdy
Clay	Green	McDermott
Clayton	Gutierrez	McKinney
Clyburn	Hall (OH)	McNulty
Coleman	Hamburg	Meehan
Collins (IL)	Hamilton	Meek
Collins (MI)	Harman	Menendez
Conyers	Hastings	Mfume
Cooper	Hefner	Miller (CA)
Costello	Hilliard	Mineta
Coyne	Hinchey	Mink
Cramer	Hoagland	Moakley
Darden	Hochbrueckner	Mollohan
de la Garza	Hoyer	Montgomery
DeFazio	Hughes	Moran
DeLauro	Hutto	Murphy
Dellums	Inslee	Murtha
Derrick	Jacobs	Nadler

Natcher	Rush	Tauzin
Neal (MA)	Sabo	Tejeda
Neal (NC)	Sanders	Thompson
Oberstar	Sangmeister	Thornton
Obey	Sawyer	Thurman
Olver	Schenk	Torres
Ortiz	Schroeder	Torricelli
Owens	Schumer	Towns
Pastor	Scott	Tucker
Payne (NJ)	Serrano	Unsoeld
Payne (VA)	Sharp	Valentine
Pelosi	Shepherd	Velazquez
Penny	Sisisky	Vento
Peterson (FL)	Skaggs	Visclosky
Peterson (MN)	Slattery	Volkmer
Pickle	Slaughter	Washington
Pomeroy	Smith (IA)	Waters
Poshard	Spratt	Watt
Price (NC)	Stark	Waxman
Rahall	Stenholm	Wheat
Rangel	Stokes	Whitten
Reed	Strickland	Williams
Reynolds	Studds	Wise
Richardson	Stupak	Woolsey
Rose	Swift	Wyden
Rostenkowski	Synar	Wynn
Roybal-Allard	Tanner	Yates

NAYS—213

Allard	Geren	McHale
Andrews (NJ)	Gilchrest	McHugh
Archer	Gillmor	McInnis
Armey	Gilman	McKeon
Bachus (AL)	Gingrich	McMillan
Baesler	Goodlatte	Meyers
Baker (CA)	Goodling	Mica
Baker (LA)	Goss	Michel
Ballenger	Grams	Miller (FL)
Barrett (NE)	Grandy	Minge
Bartlett	Greenwood	Molinari
Barton	Gunderson	Moorhead
Bateman	Hall (TX)	Morella
Bentley	Hancock	Myers
Bereuter	Hansen	Nussle
Bilirakis	Hastert	Orton
Bliley	Hayes	Oxley
Blute	Hefley	Packard
Boehlert	Herger	Pallone
Boehner	Hobson	Parker
Bonilla	Hoekstra	Paxon
Browder	Hoke	Petri
Bunning	Holden	Pickett
Burton	Horn	Pombo
Buyer	Houghton	Porter
Callahan	Huffington	Portman
Calvert	Hunter	Pryce (OH)
Camp	Hutchinson	Quillen
Canady	Hyde	Quinn
Castle	Inglis	Ramstad
Chapman	Inhofe	Ravenel
Clement	Istook	Regula
Clinger	Johnson (CT)	Ridge
Coble	Johnson (SD)	Roberts
Collins (GA)	Johnson, Sam	Roemer
Combest	Kasich	Rogers
Condit	Kim	Rohrabacher
Coppersmith	King	Ros-Lehtinen
Cox	Kingston	Roth
Crane	Klein	Roukema
Crapo	Klug	Rowland
Cunningham	Knollenberg	Royce
Danner	Kolbe	Santorum
Deal	Kyl	Sarpalius
DeLay	Laughlin	Saxton
Diaz-Balart	Lazio	Schaefer
Dickey	Leach	Schiff
Doolittle	Lehman	Sensenbrenner
Dornan	Levy	Shaw
Dreier	Lewis (CA)	Shays
Duncan	Lewis (FL)	Shuster
Dunn	Lightfoot	Skeen
Edwards (TX)	Linder	Skelton
Emerson	Lipinski	Smith (MI)
English (OK)	Livingston	Smith (NJ)
Everett	Long	Smith (OR)
Ewing	Machtley	Smith (TX)
Fawell	Maloney	Snowe
Fields (TX)	Mann	Solomon
Fish	Manzullo	Spence
Fowler	Margolies-Mezvinsky	Stearns
Franks (CT)	McCandless	Stump
Franks (NJ)	McCollum	Sundquist
Gallegly	McCrery	Swett
Gallo	McDade	Talent
Gekas	Taylor (MS)	Taylor (NC)
Thomas (CA)	Vucanovich	Young (AK)
Thomas (WY)	Walker	Young (FL)
Torkildsen	Walsh	Zeliff
Traficant	Weldon	Zimmer
Upton	Wilson	
	Wolf	

□ 2059

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2100

GENERAL LEAVE

Mr. SABO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERSONAL EXPLANATION

Mr. UNDERWOOD. Mr. Speaker, during rollcall vote No. 198, I was on my way to my district on business. If I had been present, I would have voted "nay".

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CORRECTIONS TO THE H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. SABO. Mr. Speaker, I request unanimous consent that the clerk have general leave to authorize technical and conforming corrections to H.R. 2264, the Omnibus Budget Reconciliation Act of 1993.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ADJOURNMENT OF THE HOUSE FROM THURSDAY, MAY 27, 1993, TO TUESDAY, JUNE 8, 1993, AND RECESS OR ADJOURNMENT OF THE SENATE FROM FRIDAY, MAY 28, 1993, TO MONDAY, JUNE 7, 1993

Mr. GEPHARDT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 105) and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 105

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, May 27, 1993, it stand adjourned until noon on Tuesday, June 8, 1993, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, May 28, 1993, pursuant to a motion made by the Majority Leader or his designee, it stand recessed or adjourned until noon, or until such time as may be specified by the Majority Leader or his designee in the motion to adjourn or recess, on Monday, June 7, 1993, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOT WITHSTANDING ADJOURNMENT.

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, June 8, 1993, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JUNE 9, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that business in order under the calendar Wednesday rule be dispensed with on Wednesday, June 9, 1993.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROVIDING FOR CONDITIONAL ADJOURNMENT UNTIL TOMORROW, FRIDAY, MAY 28, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that if the Senate does not adopt House Concurrent Resolution 105 by noon on tomorrow, then when the House adjourns today, it adjourn to meet at noon tomorrow, but

that if the clerk receives a message prior to noon tomorrow that the Senate has adopted House Concurrent Resolution 105, then the adjournment of the House today shall be deemed an adjournment pursuant to House Concurrent Resolution 105.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. I asked for this time to propound a few questions to the distinguished majority leader.

Initially, the Memorial Day recess was to be concluded or come to a conclusion on Monday, June 7, and now we have extended it one more day. Could the distinguished majority leader tell me what would be programmed for that Tuesday when we return on the June 8?

Mr. GEPHARDT. If the gentleman will yield, we do return on Tuesday, June 8, and we will post a schedule next week. I would suppose that on that day there will be suspensions and we will hold the votes, as we always do, until later in the day, if at all possible.

Mr. MICHEL. That seemed to be the most prevalent question, whether there would be votes on that day when we return.

Mr. GEPHARDT. That is correct.

Mr. MICHEL. And if there are scheduled suspensions, is there any idea what number there might be?

Mr. GEPHARDT. We just do not have that information available.

Mr. MICHEL. In any case, the votes on suspensions, if ordered, would be at the conclusion of the consideration of all of them?

Mr. GEPHARDT. The gentleman is correct.

Mr. MICHEL. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that the President has announced that he is going to announce tomorrow morning at 9:00 that he is requesting renewal of the most favored nations status for China. I did not quite understand that colloquy. Would it be in order for me to file a motion of disapproval of that request tomorrow, or are we adjourned? I could not hear what the majority leader was saying.

Mr. GEPHARDT. If the gentleman will yield, it is my understanding that it is most likely that the Senate will adopt this adjournment resolution, which would mean that we would not be in session tomorrow. But I see no reason that the gentleman's motion could not be presented upon our return on June 8.

Mr. SOLOMON. I just wanted that clarification. The gentleman had said something about the House possibly still being in until noon tomorrow. But if they adopt, if the Senate adopts it, then we would be out tonight; if they do not, we would still be in until tomorrow.

Mr. GEPHARDT. The gentleman is correct.

Mr. MICHEL. I thank the gentleman, the distinguished majority leader.

□ 2110

DESIGNATION OF THE HONORABLE STENY HOYER TO ACT AS SPEAKER PRO TEMPORE UNTIL JUNE 8, 1993

The SPEAKER pro tempore (Mr. MFUME) laid before the House the following communication from the Speaker of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 27, 1993.

I hereby designate the Honorable STENY HOYER to act as Speaker pro tempore—sign enrolled bills until Tuesday June 8, 1993.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

THE DEBATE IS ABOUT JOBS

Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.

Mrs. JOHNSON of Connecticut. Mr. Speaker, the current debate over the Clinton tax bill is a debate about jobs in America and a debate that goes to the heart of what America is all about. Does Government spending create jobs or does the private sector create more and better jobs? Thanks to C–SPAN and the media, the crux of this debate is not lost on our constituents: It's simple. If the Federal Government takes money out of the economy, fewer jobs are created, spending for Government support programs goes up, and the deficit widens.

One of my constituents, Paul Martel of Simsbury, CT, wrote an excellent letter to the editor reflecting the profound fear amongst Americans, that we've lost our way, have deserted the values that made America great.

Mr. Martel decries the growing apathy and disdain for the basic elements of our capitalistic, free-enterprise system and goes on to describe how the cycle of investment, risk-taking, business formation, hiring employees, earning a profit, and reinvestment is fundamental to the American way of life. It is the only way real wealth is created. I would add, it is the substance of all the hope embodied in the words opportunity and freedom.

Mr. Speaker, as usual, the man in the street is correct. As my constituent has eloquently pointed out,

> Government does not create wealth; business does. Higher taxes do not lead to prosperity; business does. Government spending does not create real jobs; business does.

I strongly urge my colleagues to heed these insights and defeat the tax-and-spend package now before us.

Mr. Speaker, I am including at this point in the RECORD the text of the article by Paul Martel, as follows:

WHERE DO JOBS COME FROM?

(By Paul R. Martel)

There is a profoundly disturbing trend in society that threatens our nation's health and survival. It shows up in divisive political rhetoric, in the news media, in churches and, most dangerously, in our tax system. This trend is a growing apathy and disdain for the basic elements of our capitalistic, free-enterprise system.

The cycle of investment, risk-taking, business formation, profit and reinvestment is fundamental to the American way of life. It is the only way real wealth is created. It is where jobs come from. It is the essence of our collective economic health.

Somewhere along the way, something changed. Businesses—the people who own and run them—became the enemy, the exploiter, the polluter, the bad rich people. Businesses have become the convenient target for taxation, regulation and government mandates. Profit is now known as greed. Hard work and investment and their rewards are now viewed as lacking moral dignity.

Capitalism is the engine that powers the car that is our economy. Government has added so many fixtures, pumps and accessories to the car that the engine stalls from the weight. The fuel for the engine—capital—is taxed so heavily that the engine chokes. We don't teach people about the engine, so no one understands why the car runs so badly.

Consider these headlines: "Job market for grads slim," "Hundreds of thousands of jobs lost in New England," "Pratt layoffs continue." Who doesn't see a connection to the tax and regulatory policies that overburden businesses? Why is it that when some propose lower capital-gains taxes and fewer mandates, they are derided and accused of pandering to the rich?

Government does not create wealth; business does. Higher taxes do not lead to prosperity; business does. Government spending does not create real jobs; business does. The next time people hear "trickle-own" economics ridiculed or a new government program is proposed or taxes are raised and mandates increased on businesses, they should ask: Where does wealth come from? Where do jobs come from? What is it that makes our country strong?

The answer is capitalism, and it's not a bad word.

A SILVER LINING IN A BAD VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. BARTLETT] is recognized for 5 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, we have done it. We have cast one of the most significant votes, certainly for this Congress and perhaps for several Congresses.

It is said that it is an ill-wind that blows no good, and although this vote bodes ill for America for the next several years until it can be changed, there is indeed a silver lining to the cloud that has been placed over this

Congress and our country this evening. That silver lining is that there are going to be a great many Democrats who do not return in 1994. They were sent here by their voters not to increase the size of government, not to increase taxes, not to increase the deficit, not to enact legislation that would result in an increase in interest and an increase in unemployment and an increase in bankruptcies, and all these things will happen as a result of the vote that we have cast today.

I appeal to you out there in America, look closely at how the Representative you sent here voted. If that Representative voted to increase your taxes, to hurt America, to provide for a poorer environment for your children and your grandchildren, send somebody else here in 1994 who will join with those of us who voted for less government and less taxes and less regulation and a better America for us and for our children and for our grandchildren.

WHY WE NEED HEALTH CARE REFORM; WHY MANAGED COMPETITION WON'T WORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Madam Speaker, following is a letter I've received from a couple in a Western State.

It is one of the best examples I've seen of why we need health care reform—both increased access and cost containment.

But is also explains why grand academic theories of managed competition won't work. Living on a modest income, this young couple have a child who needs a serious operation. They could join a famous, well-established HMO and save money and obtain coverage for the needed operation. But they would rather save their daughter's life than money, and they know that the doctor and the hospital that is most famous for the best treatment of their daughter's condition is not in that HMO.

Emily Friedman, one of the Nation's best writers and thinkers on health care issues, has listed the "Five R's" of why managed competition won't work: Rural, Risk, Race, Rights, and (Ir)rationality. As the following letter so clearly demonstrates, this young American family wants the Right, even at great personal expense to themselves, to seek the best treatment for their daughter. The economists who designed the theory of managed competition would never understand this, but when it comes to treating a loved one, a family members, a baby, people are not economic animals, they are irrational, loving human beings who, even on a very limited income, will make enormous sacrifices to save their loved one. Any economic scheme like managed competition that tries to come between parents and the health of their baby is going to be thwarted by the irrationality of love. I wish the professors in their Ivory Tower would read this letter and, as the saying goes, get a life.

MAY 21, 1993.

Representative PETE STARK,
Cannon Office Building, Washington, DC.

DEAR MR. STARK: I am writing you concerning medical insurance. Three very serious problems with our current system are gravely affecting my family.

One is the "pre-existing condition" exclusion clause allowed by insurance companies, another is the time limitation on COBRA law, and the third is the threat of not being able to choose our own doctors.

I implore you to eliminate "pre-existing condition" exclusion clauses in this country's new health-care plan. Here's why.

My husband and I have a 3-month old daughter who has a congenital heart defect called aortic valve stenosis. She looks like the picture of health. But in reality, she will require an operation probably before she's one year old. And because her problem can recur and require another operation, the medical insurance companies have declared her undesirable because she has a "pre-existing condition." Let me tell you what that means to us as a family.

Since she was born a mere three months ago, we have spent $1,224 in insurance premiums (we have no other dependents). By her first birthday, we will have spent $4,222 in insurance premiums. And those figures do not include our share of the doctor bills, which can run up to $5,000 a year in deductibles and co-payments. For this, we are told, we should feel lucky.

After we enroll in my husband's new insurance plan July 1, she will not become eligible for coverage for 12 months. Her current insurance coverage through a COBRA plan I'm on runs out six months prior to that. For those six months from January to July 1994, insurance premiums for the baby alone will cost us more than $3,500. And this doesn't include the cost of any doctor's appointments, just surgery and hospitalization.

Part of the problem with her insurance has to do with the time limitation on COBRA coverage. You see, I've been covering her on my COBRA insurance plan but it runs out six months before she becomes eligible for other insurance. The 18-month COBRA maximum just isn't long enough in some cases like ours and I think exceptions should be made.

Another reason it's so expensive to insure her is because we refuse to enroll her in a HMO medical plan (which doesn't have a pre-existing condition clause). I have had bad experiences with that HMO and so have many of my friends.

Are you aware that the HMO's doctors are actually provided monetary incentives to steer patients away from further treatment? The fewer referrals these doctors make, the more money they make! Imagine how this would affect treatment for someone like our baby, who requires very close follow-up and only the most skilled specialists. We saved our daughter from an unnecessary operation recently because we were able to obtain a second opinion from a doctor of our choice. I am not willing to forfeit the right to choose.

We want to choose our doctors and we are willing to pay something to have that choice. But we don't think it's fair to be burdened with such high health care costs because our daughter was born with a problem. The money we pay for medical insurance is paying for expensive health care and elaborate life-saving measures for a lot of people who have created their own poor health because they do things like smoke, drink, take drugs, eat unhealthfully and/or don't exercise. Our baby did nothing but be born into this world. And I certainly did my part by taking good care of myself during pregnancy.

My husband and I are not rich by any means. In fact, although both of us are college-educated professionals from middle class families, we now fall into what might be described as "the new lower class." My husband grosses $26,000 a year as a newspaper editor and I make nothing—not since I was laid off last July when I was eight weeks pregnant.

A lot of pleasures and even some necessities will have to be sacrificed to give our daughter the medical care she needs. And in our downward spiral, we can certainly never hope to realize "The American Dream."

When we are dead and gone, our daughter is going to have to manage her own health insurance. It's going to be hard enough on her dealing with her health problem, much less it's expense. This excessive monetary outlay is bound to affect the quality of her adult life, as it already has ours.

This kind of medical selectiveness is essentially a form of prejudice. Think about it: Pre-existing condition exclusions are similar to other types of discrimination felt by Blacks, Hispanics and other minorities! People of color were born that way and our baby was born with a heart condition—I don't see any difference.

Shame on the American health care system!

Please help us. It's going to take years to reform health care and we've already got a very late start.

Sincerely,

_____.

A SAD DAY FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, today has truly been a sad day for America. Just less than 15 minutes ago the House voted for the largest tax increase in American history.

I voted today against the budget bill because every sector of our society will be hit and hit hard. Especially hard hit are America's senior citizens. Through this bill, taxes on Social Security benefits are increased by 70 percent. For some beneficiaries, this new tax will cost about $226 per month.

For millions of retirees on fixed incomes, this is a tremendous burden. Rather than enjoy their long-deserved retirement, these senior citizens are being forced into the poor house. How? Because 85 percent of Social Security benefits will be taxed to raised $32 billion.

Why this new massive tax instead of cutting wasteful Government spending?

Because President Clinton and the Democrats' that control Congress have targeted senior citizens to help pay for waste and gross fiscal mismanagement by this administration.

This is totally outrageous. America's senior citizens did not create this financial mess. In fact, they have been working hard all their lives contributing revenue and paying taxes.

The Democrats' favorite new rallying cry seems to be "Everyone must pay their fair share."

America's senior citizens have already paid more than their fair share. Now, in their golden years, they are being asked to pay more. Why?

But, wait, that is not all. This mega-tax bill adds insult to injury.

The new gas tax that Democrats deceptively call a Btu tax so as to confuse everyone, directly hits those on fixed incomes.

While in fact this deceptive tax will cost every American 8 cents per gallon and it will go up higher and higher because it is indexed to inflation.

Over the next 5 years, America's senior citizens can expect to pay up to 10 cents more per gallon of gas, pay more for electricity, pay more for heating oil, and pay more for almost every product and service they buy, including groceries.

New corporate tax increases will also be passed on to senior citizen consumers through higher prices on the basic necessities they need to buy.

Does this bill offset these new costs to senior citizens? Do they really get anything in return for this unfair sacrifice? Of course not. They receive no new benefits. No new programs. Just new, higher taxes.

Does the $32 billion this budget steals from seniors citizens go into the Social Security trust fund? No, it goes into general government spending to be used for pork barrel waste and more government handouts.

Let me remind my colleagues, especially my freshmen Democratic colleagues, that there will come a day of reckoning during the cold days of November 1994 when broken promises blow about with the fallen leaves.

The American people are not stupid. Many of today's senior citizens lived through the Great Depression of the 1930's. They know from that very painful experience that increased taxes do not lead to prosperity and, despite all the wornout rhetoric of the Democrats, this largest tax increase in American history will not promote prosperity.

Enough is enough. Think of the men and women who toiled all their lives and who are entitled to the comfort and dignity of a retirement they earned.

While this flawed bill passed the House, I urge my colleagues in the other body to learn from mistakes of this House and eliminate these regressive Social Security and Btu taxes in the Senate.

Yes; this has truly been a sad day in the House of Representatives.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1994–98

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. SABO] is recognized for 5 minutes.

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1994 through 1998 and spending for fiscal year 1994. Spending levels for fiscal years 1995 through 1998 are not included because annual appropriations acts for those years have not been enacted.

This is the first report of the 103d Congress for fiscal year 1994. This report is based on the aggregate levels and committee allocations for fiscal years 1994 through 1998 as printed in the CONGRESSIONAL RECORD on March 31, 1993, page 6965.

The term "current level" refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, May 27, 1993.

HON. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1994 through 1998 and spending estimates for fiscal year 1994, under H. Con. Res. 64, the Concurrent Resolution on the Budget for Fiscal Year 1994. Spending levels for fiscal years 1994 through 1998 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to the conference report on H. Con. Res. 64 were printed in the Congressional Record, March 31, 1993, page H. 1784.

Sincerely,

MARTIN OLAV SABO,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1994 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 64

REFLECTING COMPLETED ACTION AS OF MAY 26, 1993

[On-budget amounts, in millions of dollars]

	Fiscal year 1994	Fiscal years 1994–98
Appropriate Level:		
Budget authority	1,223,400	6,744,900
Outlays	1,218,300	6,629,300
Revenues	905,500	5,153,400
Current Level:		
Budget authority	726,072	(1)
Outlays	920,839	(1)
Revenues	878,100	4,863,825
Current Level over (+)/under(−) appropriate level:		
Budget authority	−497,328	(1)
Outlays	−297,461	(1)
Revenues	−27,400	−289,575

[1] Not applicable because annual Appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $497,328 million in budget authority for fiscal year 1994, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 64, to be exceeded.

OUTLAYS

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate for fiscal year 1994, and exceeds $297,461 million in outlays for fiscal year 1994, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 64, to be exceeded.

REVENUES

Any measure that would result in a revenue loss for fiscal year 1994, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 64. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1994 through 1998, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in H. Con Res. 64.

DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1994

[In millions of dollars]

	Filed 602(b) subdivisions		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, rural development	14,629	14,340	0	3,588	−14,629	−10,752
Commerce, State, Judiciary	22,969	23,156	20	6,368	−22,949	−16,788
Defense	240,746	255,615	0	94,418	−240,746	−161,197
District of Columbia	700	698	0	0	−700	−698
Energy and water development	22,017	21,702	0	8,775	−22,017	−12,927
Foreign operations	13,783	13,918	170	8,472	−13,613	−5,446

DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1994—Continued

[In millions of dollars]

	Filed 602(b) subdivisions		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Interior	13,736	13,731	400	4,914	−13,336	−8,817
Labor, Health and Human Services, and Education	66,983	68,290	1,716	38,162	−65,267	−30,128
Legislative	2,300	2,289	0	204	−2,300	−2,085
Military construction	10,337	8,784	0	6,379	−10,337	−2,405
Transportation	13,134	34,739	0	22,773	−13,134	−11,966
Treasury-Postal Service	11,319	11,522	0	2,729	−11,319	−8,793
VA–HUD–Independent Agencies	68,311	69,973	720	40,476	−67,591	−29,497
Grand total	500,964	538,757	3,026	237,258	−497,938	−301,499

DIRECT SPENDING LEGISLATION

[Fiscal years, in million of dollars]

House committee	1994			1994–98		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
Agriculture:						
Appropriate level	−65	−66	−60	49,024	34,682	888
Current level	0	0	0	0	0	0
Difference	65	66	60	−49,024	−34,682	−888
Armed Services:						
Appropriate level	−128	−128	−128	−2,365	−2,357	−2,357
Current level	0	0	0	0	0	0
Difference	128	128	128	2,365	2,357	2,357
Banking, Finance and Urban Affairs:						
Appropriate level	0	−338	0	0	−2,792	0
Current level	0	0	0	0	0	0
Difference	0	338	0	0	2,792	0
District of Columbia:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Appropriate level	0	0	118	0	0	−4,048
Current level	0	0	0	0	0	0
Difference	0	0	−118	0	0	4,048
Energy and Commerce:						
Appropriate level	0	−1,700	−180	−1,169	−8,369	−7,798
Current level	0	0	0	0	0	0
Difference	0	1,700	180	1,169	8,369	7,798
Foreign Affairs:						
Appropriate level	0	0	0	−5	−5	−5
Current level	0	0	0	0	0	0
Difference	0	0	0	5	5	5
Government Operations:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Judiciary:						
Appropriate level	0	0	0	0	−472	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	472	0
Merchant Marine and Fisheries:						
Appropriate level	0	0	0	−205	−205	−4
Current level	0	0	0	0	0	0
Difference	0	0	0	205	205	4
Natural Resources:						
Appropriate level	−117	−112	0	−709	−693	0
Current level	0	0	0	0	0	0
Difference	117	112	0	709	693	0
Post Office and Civil Service:						
Appropriate level	−66	−66	−77	−10,199	−10,547	−9,597
Current level	0	0	0	0	0	0
Difference	66	66	77	10,199	10,547	9,597
Public Works and Transportation:						
Appropriate level	2,092	−13	0	37,458	−85	0
Current level	0	0	0	0	0	0
Difference	−2,092	13	0	−37,458	85	0
Science, Space, and Technology:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans Affairs' Transportation:						
Appropriate level	−11	−11	70	−1,356	−1,352	3,447
Current level	0	0	0	0	0	0
Difference	11	11	−70	1,356	1,352	−3,447
Ways and Means:						
Appropriate level	−2,876	−2,054	−2,036	−29,669	−24,422	−12,596
Current level	0	0	0	0	0	0
Difference	2,876	2,054	2,036	29,669	24,422	12,596
Permanent Select Committee on Intelligence:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 27, 1993.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1994 in comparison with the appropriate levels for those items contained in the 1994 Concurrent Resolution on the Budget (H. Con. Res. 64). This report, my first for fiscal year 1994, is tabulated as of close of business May 26, 1993. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 64)	Current level +/− resolution
Budget authority	726,072	1,223,400	−497,328
Outlays	920,839	1,218,300	−297,461
Revenues:			
1994	878,100	905,500	−27,400
1994–98	4,863,825	5,153,400	−289,575

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT 103D CONG., 1ST SESS., HOUSE ON—BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS MAY 26, 1993

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	.....	.....	878,100
Permanents and other spending legislation	741,060	699,671	.....
Appropriation legislation	.....	241,770	.....
Offsetting receipts	(183,477)	(183,477)	.....
Total previously enacted	557,583	757,964	878,100
PENDING SIGNATURE			
Authorize construction of World War II Memorial (S.214)	1	1	.....
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	168,488	162,874	.....
Total current level[1]	726,072	920,839	878,100
Total budget resolution	1,223,400	1,218,300	905,500
Amount over budget resolution	.....	.....	.....
Amount under budget resolution	497,328	297,461	27,400

[1] In accordance with the Budget Enforcement Act, the total does not include $2,340 million in budget authority and $2,340 million in outlays for emergency in Public Law 103–6.

Note.—Amounts in parenthesis are negative.

THE CASE FOR A NUCLEAR TEST BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 5 minutes.

Mr. FISH. Madam Speaker, the U.S./Soviet nuclear arms race is over, but the nuclear threat to international stability is perhaps even greater now than during the cold war.

The disintegration of the Soviet Union presents us with problems of control and dismantling of strategic nuclear weapons located in the new republics. Of greater concern, worldwide proliferation of nuclear capability has continued over the past 20 years in the shadow of superpower competition, and controls on fissionable materials and nuclear technology have weakened. Nations and terrorist groups seek nuclear weapons and materials, sensitive components, scientists and their know-how from a disintegrating Soviet weapons complex.

New players, many of whom are small powers, now are at the threshold of nuclear capability. Countries like Iran, Iraq, China, North Korea, Israel, Libya, Pakistan, Algeria, Argentina, Brazil, and India either have nuclear weapons or the ability or suspected ability to assemble them on short notice.

The challenge for today and the future is to develop strategies to deter potential proliferators and to strengthen international control with a rigorous nonproliferation regime. The opportunity is at hand to advance the goal of universal adherence to the Nuclear Non-Proliferation Treaty. In 1995, the 25th anniversary of the treaty, parties to the NPT will meet to consider the treaty's extension.

At that time, nuclear weapons states will be called to account for their progress in the last quarter century toward fulfilling their duties under article VI of the NPT. Under article VI, nuclear weapons states agreed:

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

The United States and Russia are now performing more positively on their article VI treaty obligations. Third World countries led by Mexico, however, protest that they will resist meaningful extension of the treaty if the United States and its allies do not stop testing nuclear weapons. Substantial steps by the United States—an extension of the current 9-month testing moratorium scheduled to expire in July 1993 and ratification of START I and START II by the United States and the republics of the former Soviet Union, will put the United States in a much stronger bargaining position at the 1995 conference.

The United States must lead by example. We should show the world that nuclear weapons are being reduced both in numbers and political function. Through the long history of arms control, we have come to learn that nuclear arms are political, not military, weapons. Useless for actual warfare, they are perceived to be the ultimate guarantor of national sovereignty. Compliance with a test ban by all nuclear states minimizes whatever political prestige a nuclear program may carry and would be a major step in further deligitimizing nuclear weapons.

A test ban will rally on our behalf the nonnuclear states to support a long, if not indefinite, extension of the NPT. A test ban, in conjunction with international agreement to impose sanctions on countries that engage in testing, would also make it extremely difficult for a nation to build more complex nuclear weapons.

Mr. President, 1993 could be the first year in 48 years that no nation in the world has exploded a nuclear weapon. It could also be a step toward assuring that there will be no more explosions in the future.

Doubtless you are familiar with respected scientific assessment that even if no further tests occur, the technical soundness and reliability of American nuclear weapons cannot be doubted. Test explosions are not necessary to determine whether nuclear weapons are operational—reliability can continue to be monitored as it is now, through computer simulation, testing of nonnuclear components and physical inspections for signs of deterioration. The United States should, in fact, be in a better position than any other country to stop nuclear testing, having conducted nearly 1,000 such tests already.

Your decision on resumption of testing is expected shortly. I respectfully suggest that our national interests and those of ensuring a successful extension of the Nuclear Nonproliferation Treaty will be served by our example in not resuming testing. Our goal surely is to work toward a comprehensive test ban, on this, the 30th anniversary of President John F. Kennedy's signing the first nuclear arms control treaty, the Limited Test Ban Treaty of 1963.

□ 2120

NATIONAL ASIAN-PACIFIC AMERICAN HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Madam Speaker, I want to first express my appreciation to the distinguished gentlewoman from Hawaii [Mrs. MINK], my friend and colleague also from Hawaii, Mr. NEIL ABERCROMBIE; also Congressmen NORMAN MINETA and BOB MATSUI both of California and my colleague from Guam, Mr. ROBERT UNDERWOOD—for their offered assistance to participate in this Special Order recognizing President Clinton's official proclamation to designate this month—the month of May—as National Asian-Pacific American Heritage Month.

Mr. Speaker, because of conflicts in scheduling and other appointments, my colleagues have asked that I submit their statements to be made part of the RECORD.

Madam Speaker, I want to preface my remarks this evening by first recognizing a young and energetic Asian-Pacific American who makes us all proud here in our Nation's Capitol.

Madam Speaker, I want to pay a special tribute to the newest acquisition of the Washington Redskins football team. He is Mr. Al Noga, a native of American Samoa, who lived in his early years in Hawaii and was an All-American football player from the University of Hawaii.

Mr. Speaker, I am extremely proud of this young man who comes to the Redskins by way of the Minnesota Vikings—where he solidified his reputation as one of the NFL's most complete defensive linemen. In 1992 alone, he was credited with 54 tackles and 9 sacks.

Who is Al Noga? Al is one of the 12 young Samoans currently playing in the NFL—along with 6 Hawaiians and 3 Tongans.

While at the University of Hawaii, Al became the first player in the University of Hawaii history to be named All-American when he was chosen by the Associated Press after his sophomore season. He also earned all-conference and WAC Defensive Player of the Year honors as a sophomore after setting Hawaii's single-season record of 17 sacks, 31 tackles for loss yards, and forced 6 fumbles.

In his rookie year at Minnesota, Al finished 9th in the NFC and 13th in the NFL in the number of sacks, tackles, and forced fumbles. In his second year, Al started all 16 games and posted a career high 65 tackles and was 4th on the club with 6 sacks.

Al's older brother, Niko, is a veteran linebacker who has played with the Cardinals, Lions, and Raiders—and another brother Pete played with the Cardinals.

I am extremely proud of the accomplishments of Al Noga and I join Samoans everywhere in welcoming him and his wife, Kathi, to the home of the next Superbowl Champions—the Washington Redskins.

Madam Speaker, I rise today to honor the deep and enduring legacy of those Americans whose roots extend from the soil of the nations of Asia and the Pacific Islands. A few weeks ago, I was privileged, along with my Asian-Pacific colleagues, to attend a special White House ceremony, at which President Clinton signed an official proclamation declaring this month—the month of May—as "National Asian-Pacific American Heritage Month."

Certainly, the contributions of Asian-Pacific Americans have immeasurably enriched our great Nation, which has been blessed with a mosaic of cultural ethnic diversity representing just about every country on this planet. In order to truly appreciate the 8 million Asian-Pacific Americans living today in the United States, however, I believe it is helpful to attain a perspective on the Asia-Pacific region and its importance to America. Let me share with the Nation some of the highlights of our current relationship with the Asia-Pacific region, and why it is in our national interest to maintain strong economic, social, and political ties with this area of the world.

THE UNITED STATES AND THE ASIA-PACIFIC: A PARTNERSHIP FOR THE PACIFIC CENTURY

As we prepare to leave the twentieth century and enter what many have called the dawning of the "Pacific Century," it is imperative for the United States to dramatically reassess her foreign policy towards the Asia-Pacific region. Having served as a member of the House Foreign Affairs Committee for the past four years, I have argued that the United States has an unhealthy fixation with the affairs of Europe and the Middle East. This is unfortunate, as it has resulted in America's indifference—some might even call it failure—to address the serious issues affecting our nation's relationship with the countries of the Asia-Pacific region. Almost two-thirds of the world's population resides in Asia and the Pacific, and the region accounts for the production of two-thirds of the world's Gross National Product. In this decade and into the next century, the Asia-Pacific region will play an increasingly pivotal role in the economic, political, strategic and security needs of the world. It is evident that it is in our national interest to establish and maintain strong ties with this rapidly developing region of the world.

THE ASIA-PACIFIC ECONOMY

Known as the "Four Tigers" for their astoundingly rapid economic growth, South Korea, Taiwan, Hong Kong and Singapore have been joined by a new wave of "Little Dragons" led by Indonesia, Malaysia and Thailand. All of these countries have vigorously expanding economies, some up to 11% annually, placing them among the fastest growing in the world.

Joining this tidal wave of economic development has come the sleeping giant of Asia, the People's Republic of China (PRC). By cultivating economic growth recently estimated as high as 13%—the highest rate of economic expansion in the world in 1992—China may be the first example of a Communist system that will succeed in meeting the economic needs of her people.

Establishing numerous financial links with Taiwan and Hong Kong, with cross-border investments exceeding $36.5 billion over the past twelve years, the PRC has emerged as a new economic entity termed "Greater China." The combined Gross Domestic Product of Greater China last year totaled over $626 billion. Due to the rapid blossoming of Greater China's integrated economy, it is foreseen that this will increasingly act as a counterbalance to Japan's considerable economic clout in the region.

These facts paint a picture that has many analysts in international finance predicting that the Asia-Pacific region will shortly replace the North Atlantic as the center of world trade.

U.S. ECONOMIC INTERESTS IN THE ASIA-PACIFIC REGION

At present, the United States has a substantial stake in the Asia-Pacific economy.

According to recent U.S. Department of Commerce figures, America conducted over $327 billion worth of total trade last year with the countries of the Asia-Pacific—easily matching and nearly doubling the trade conducted with Western Europe.

Since 1981, U.S. trade with the Asia-Pacific region has expanded by 150% and is expected to increase to $400 billion by the end of this decade.

Significantly, American exports to the region have increased by well over 130% since 1981. According to Commerce Department figures, Asia-Pacific countries purchased $130 billion worth of U.S. products in 1991. And in 1992, almost one-third of America's exports to the world were bought by nations of the Asia-Pacific.

Today, over 2.6 million American jobs are dependent on trade with the region, and U.S. firms have over $62 billion invested there. These trade ties are rapidly escalating.

REASSESSING U.S. ECONOMIC POLICY IN THE ASIA-PACIFIC REGION

Due to the unprecedented pace of economic development in a part of the world that is fast becoming the center for world trade, the United States can no longer expect to have unchallenged economic supremacy in the Asia-Pacific region. Neither can the United States afford a trade policy of protectionism. Erecting trade barriers, increasing tariffs and imposing more product quotas, as some have called for in Congress, will do little to revitalize and rebuild America's economy. As America's balance of trade deficit grows, there is need for the U.S. to reassess her policy priorities, especially towards Japan and China, the two engines driving the economic future of the Asia-Pacific region.

I join others in advocating that the first priority in policy should be stopping the deterioration of the U.S.-Japan relationship. A solid and stable partnership between America and Japan is the only foundation upon which peace and economic prosperity in the region can be ensured. New U.S. policy must be forged that will allow common ground to be reached on economic and political concerns with our longtime ally.

It is my belief that America's trade conflicts with Japan have been emphasized too much, to the point where many in the U.S. have lost sight of the big picture. Although certainly the U.S. trade deficit with Japan is important, this issue should not be permitted to dominate—poisoning the trust, the confidence and the mutual respect that have bound our two nations in friendship for decades.

However, if America is to increasingly view and treat Japan as an equal partner, Japan must also demonstrate willingness to shoulder greater responsibility for global affairs. With a surplus of over $130 billion from global trade, Japan has profited handsomely from free trade. To signal her good faith in assuming a position of world leadership, Japan could start by removing the country's multiple barriers to free trade, such as those protecting her rice markets. There is also the necessity for Japan to play a more prominent role in supporting GATT and the current round of negotiations in Uruguay.

I am confident these trade disputes will be transcended. The U.S. and Japan can then turn to the broad range of interests that our two nations share not only in the Asia-Pacific region but in addressing the needs of the global economy.

Another crucial priority for America involves the stabilization of relations with the People's Republic of China. Some members in Congress have pointed accusing fingers at China, criticizing her for the lack of individual freedoms and democracy that we in the West take as God-given rights. Some have moved for economic punishment of China for human rights violations and other shortfalls by withdrawing her Most-Favored-Nation (MFN) trading status.

I join those members of Congress that question the wisdom of such action, however. It is imperative that China's awe-inspiring progress toward a free market economy be supported by the United States. History has proven time and time again that economic success is a precursor to the growth of democratic reform and political pluralism. For proof, we need only look to the vibrant democracies flourishing today in South Korea and Taiwan; the wave of economic prosperity in those nations devoured the repressive regimes in power only yesterday. The lesson to be learned is that America must be patient.

Threats to revoke China's MFN can often be counter-productive. More importantly, if America chooses to unilaterally apply economic sanctions against China with the goal of isolating her, we are only deluding ourselves. Increasingly, events have shown that such action will not gain the multilateral

support of the nations of the Asia-Pacific nor the world. The net result is that America is the one isolated.

In the months after the Tiananmen Square tragedy, while Washington justifiably took the high moral ground, our European and Asian allies flocked to fill the vacuum of business interests, laying the ground for innumerable business ventures in the future. While America was right in expressing shock and reprehension over the tragic events of Tiananmen, the years since have revealed a China that has changed in important ways, as economic freedoms have subtly laid the foundation for future growth of increased political freedom. Given the changing picture, at a time of financial crisis and economic weakness in the United States, I ask can we afford to continue handcuffing America's access to the largest and most rapidly developing market on the planet?

While I certainly do not condone the infringement of human rights that have been and perhaps are being perpetrated by Beijing, this must be balanced against recognition of China's sovereign right to control her domestic matters in nurturing the transition from a poor agrarian state to a diversified free market economy—all the while providing for the welfare of a population that numbers almost five times that of America. Some have said that the right to subsistence—to have adequate food and shelter—is the most fundamental of human rights, and I certainly cannot argue against that in observing China's struggle to feed, clothe and shelter her masses.

In recognizing that China's task is a difficult one, the U.S. must demonstrate restraint and patience. And we must also show vision by not limiting our focus to humanitarian concerns to the detriment of the vast, broad range of interests that America has in common with China. In addition to our sizeable economic incentive, we must also form strong ties to China to address pressing environmental concerns, escalating arms sales and the uncontrolled spread of nuclear proliferation.

It is only when fundamental interests of the United States are at stake that we should consider the use of the ultimate economic sanction—the withdrawal of MFN. In my opinion, the time for that has not come for China, and President Clinton should be given the flexibility and time to forge through diplomacy and alternative sanctions a closer relationship with China for our mutual benefit.

U.S. SECURITY INTERESTS IN THE ASIA-PACIFIC REGION

Despite the tremendous transformations taking place around the world, one thing that has remained unchanged is that the United States has key security interests in the Asia-Pacific region that demand America remain a predominant military power there.

There exist many sources for potential instability and flashpoints in the Asia-Pacific region that concern the United States.

With the withdrawal of U.S. forces and closure of bases in the Philippines, the developments in that nation bear watching. Widespread poverty, a weak economy, and a long-existing Communist and Muslim insurgency present a volatile combination that could spell problems for President Ramos' administration. Most Asian nations, as well as the U.S., acknowledge that security of the Philippines and the sealanes surrounding her are essential to the stability of all of Asia.

But one of the most urgent threats is posed by Communist North Korea and her desperate quest for nuclear weapons. Acquisition of nuclear warheads, combined with a ballistic missile program and an intimidating military force numbering over a million soldiers, could lead to a major conflict on the Korean peninsula. Needless to say, such a conflict would hold ramifications for the entire world.

With North Korea's recent withdrawal from the Nuclear Non-Proliferation Treaty (NPT) after disputes with the International Atomic Energy Agency (IAEA), a major escalation of that threat has occurred. The move has sent shockwaves through Asia and the global community. Nuclear weapons in the hands of North Korea potentially threatens not only South Korea, but Japan, Taiwan, and even China.

Some in the Congress have called for surgical strikes to destroy suspected nuclear weapons facilities in North Korea before their nuclear capacity becomes more deadly. Cooler heads have prevailed, however, and I join them in urging that President Clinton use all diplomatic measures necessary to bring Pyongyang back to the negotiating table and into compliance with the NPT. With recent reports, I am hopeful that negotiations between Pyongyang and the IAEA will allow this matter to be resolved peacefully.

If necessary, however, the U.N. Security Council may have to move for economic sanctions and related measures to convince North Korea to fulfill her obligations under the NPT. The world community cannot permit North Korea to blatantly violate the NPT without punishment. To acquiesce here would set a terrible precedent, encouraging other countries to make similar maverick attempts to join the "Nuclear Club."

The ominous incident with North Korea exemplifies why a high priority for U.S. policy in the Asia-Pacific must be the halting of nuclear and missile proliferation. Effective nuclear and missile arms control regimes must be pursued that will bring North Korea and China into the fold.

The People's Republic of China, as noted earlier, has recently enjoyed great economic success. With her cash reserves, China has raised concern in the Asia-Pacific region by investing massive sums in high-tech military hardware. While the Soviet Union has collapsed and Japan remains pacifist, China has increased her military budget by over 50% since 1989.

In so doing, China has purchased a number of advanced Soviet jet fighters and bombers, and seeks to procure an aircraft carrier—the foundation for a blue water fleet in the South China Sea. China is also obtaining advanced missile guidance systems, which, seen in light of her largest ever nuclear detonation last year, is particularly worth noting.

At a time when relative peace is at hand, many in the region and the U.S. question China's heavy military buildup. With China's aggressive assertion of claims to the Spratly Islands and Taiwan, and her conducting of well-publicized military offensive exercises, it is feared that Chinese expansionism in the Asia-Pacific region may result.

On the other hand, China's military investment has been perceived in some quarters as being a reasonable modernization of her aging, outmoded weaponry systems for self-defense. After witnessing America's state of the art lightning-like devastation of Iraq in the Gulf War, China has understandably felt inadequate and behind the times. With military hardware being offered at fire sale prices by Russia and the Ukraine, China has capitalized on the opportunity. Seen in light of America's military budget of over $250 billion per year and Japan's annual defense expenditure of $30 billion, China's military spending of $7 billion last year appears relatively modest.

DEFINING U.S. SECURITY POLICY IN THE ASIA-PACIFIC REGION

Before and since WWII, the U.S. has played and continues to play a paramount role in maintaining stability and peace in Asia and the Pacific. Our participation in the affairs of the region has greatly laid the foundation upon which the Asia-Pacific's present prosperity has been built.

With the dynamic economic growth of the region, it is increasingly vital to the welfare of our nation as well as the world that we continue to play a major role in the bilateral and multilateral security affairs of Asia and the Pacific.

I strongly support the U.S. Department of Defense's strategic framework for the Asian Pacific Rim in the twenty-first century, and have drawn liberally from their recent report to Congress. I also agree with the Pentagon that our nation's security policy in the Asia-Pacific region must be flexible yet premised on six basic principles.

1. There exists the absolute assurance that America will continue to engage herself in the affairs of Asia and the Pacific.

2. There is the understanding that America will continue to foster a strong system of bilateral security arrangements with nations in the region.

3. It is agreed that the U.S. will continue to maintain a reserve of forward-deployed forces, although reduced in number, in the region.

4. Our nation is committed to maintaining overseas bases and equipment necessary to support those U.S. forces.

5. It is understood that our friends and allies in the Asia-Pacific must continue to bear greater responsibility for their self-defense.

6. Our defense cooperation with our allies shall be complementary in nature and not duplicative.

In applying this broad security policy in the Asia-Pacific, the United States seeks to ensure that key security interests are protected.

Foremost among these is the protection of the U.S. and her allies from attack. In addition to defending Alaska, Hawaii, the U.S. Territories, and their lines of communication and navigation to the continental United States, America has pledged to assist in the defense of her allies and their vital sealanes.

By so doing, another key security interest in the Asia-Pacific is achieved: preservation of regional peace and stability.

Other vital U.S. interests focus on preserving political and economic access to the countries of the region, while fostering the growth of democratic government and the protection of human rights.

A final security interest pertains to averting the proliferation of nuclear, chemical and biological weapons in the Asia-Pacific region, while contributing to nuclear deterrence where necessary.

FACILITATING DIALOGUE THROUGH A MULTILATERAL SECURITY FRAMEWORK

A measure that is vitally needed in the Asia-Pacific and holds great promise for increased regional stability is the creation of a multilateral security framework.

I would strongly urge the formation of an Asia-Pacific Regional Security Regime,

whether or not it is shaped after NATO or the Conference on Security and Cooperation in Europe (CSCE). The lack of such a forum facilitating dialogue on security concerns has resulted in an escalating arms race in the region, as many of the smaller Asia-Pacific countries fear the defense buildup by China as well as the potential for Japan to unilaterally remilitarize.

A new Post-Cold War defense arrangement in the Asia-Pacific would go a long way toward defusing regional security anxieties and the powderkeg of arms procurements. In a time of reduced U.S. military spending in the Asia-Pacific, such an arrangement could be a cost-effective supplement and complement to existing U.S. bilateral security treaties with our allies. Although such a regional security framework would never displace nor act as a substitute for America's bilateral treaties, the initiative could realize significant financial savings for the U.S. by spreading burdensharing with the numerous nations of the Asia-Pacific.

For the multilateral security regime to work, it is fundamentally important that both China and Japan participate as key players, in addition to the ASEAN countries, the remaining countries of Northeast Asia, the nations of the South Pacific, and perhaps later Russia and Vietnam. In pursuing this initiative, the United States could further the exchange, sharing and flow of information between nations of the Asia-Pacific, easing much of the uncertainty and paranoia in the region about hidden agendas of fellow nations. In addition to reducing regional tensions, a major benefit would be the freeing of capital in many Asia-Pacific countries, allowing the diversion of funds from costly arms procurements to much needed programs fostering economic growth and societal improvements.

CONCLUSION

The Asia-Pacific region is immersed in a renaissance of economic prosperity and relative peace. For America to become a greater participant in and beneficiary of that dynamic process, we must adopt new approaches demonstrating flexibility and sensitivity to the needs and concerns of countries of the Asia-Pacific. In so doing, America and nations of the region will achieve greater harmony through a true trans-Pacific partnership.

As we prepare to depart the twentieth century, the countries of the Asia-Pacific should take comfort in the knowledge that America—their friend and ally—is determined more than ever to maintain a deep and enduring partnership that will last throughout the Pacific Century.

□ 2130

Madam Speaker, I think without any question we do definitely have very high stakes when it comes to meeting our security interests in this part of the world.

Madam Speaker, we have approximately 8 million Asian-Pacific Americans living in this great Nation of ours, and I want to pay special tribute to President Clinton and certainly the Congress for having passed legislation that authorizes our President to officially proclaim the month of May as the National Asian-Pacific American Heritage Month.

□ 2140

I know that the Asian-Pacific American community is perhaps the newest among the immigrants that have come to this country. But I submit, Madam Speaker, I think it is a great benefit to our country that America is known for its strength. Its greatest asset is the diversity of so many peoples from so many different parts of the world who want to start a new life and enjoy the blessings of hard work, protection, and guidance provided by the provisions of our Federal Constitution.

I submit, Madam Speaker, commemoration of this month of May to give remembrance to the contributions of Asian-Pacific Americans in our country may be a small item to consider, but I know that for the 8 million Asian-Pacific Americans this is a special month.

I say that with a historical perspective. Someone may ask the question, what have the Asian-Pacific Americans done for our country? I submit, Madam Speaker, historically it has not been a very nice picture.

In the aftermath of the bombing of Pearl Harbor, December 7, 1941, well over 100,000 American citizens, Madam Speaker, I submit—100,000 American citizens were forcibly taken away from their homes, their properties confiscated, and they were placed in what was then described as relocation camps. Madam Speaker, as far as I am concerned, they were concentration camps. Despite this tragedy, Madam Speaker, Gen. George Marshall certainly ought to be credited for his foresight, understanding, and compassion by authorizing two military units to be organized composed entirely of volunteers of Nisei-Americans, or in other words—Japanese-Americans.

Despite the fact that these Japanese-Americans knew fully well that their brothers and sisters and their parents were placed in these concentration camps in our own country, they volunteered to take up arms to defend our Nation during World War II in Europe.

Let me share with you, Madam Speaker, the achievements of these Japanese-American soldiers. The 100th Battalion and the 442d Combat Regiment Group, which totaled about 10,000 Japanese-Americans, later became known as the most decorated military units in the history of the United States.

The 100th Battalion was also known as the Purple Heart Battalion, because over 1,000 Purple Hearts were awarded to the members of this battalion. The 100th Battalion is known historically as the only battalion in the history of the U.S. Army to have its own shoulder patch—and that patch is still worn today.

The 442d Infantry Regimental Group has one of its distinguished members serving as the senior Senator from the State of Hawaii, Senator DANIEL INOUYE. For his bravery and courage demonstrated as a soldier in World War II, Senator INOUYE was awarded the second highest military decoration for valor—the Distinguished Service Cross, for which he lost his right arm as he fought in combat.

What did these two military units do, or what did these Japanese-American soldiers do for our Nation? I submit to you, Madam Speaker, their record is unparalleled.

The 100th Battalion and the 442d Infantry military units were also known as the most decorated units in the history of the United States. I say this because these men were awarded over 18,000 individual decorations for bravery and for the courage that they displayed defending our country while fighting in Europe.

Unfortunately, and perhaps this is something that the Department of the Army should look into, these units were awarded only one Medal of Honor, but 52 Distinguished Service Crosses, 560 Silver Stars, and over 9,400 Purple Hearts. President Truman commented that these men not only fought against the enemy, but also against prejudice.

I say this is a special tribute to the brave and the courageous efforts made by these Japanese-Americans.

I also submit that black Americans fought bravely during World War II despite the practice of segregation in the armed services. President Truman was so moved by such bravery in the field of battle that he issued an Executive order to desegregate the armed services.

Yes, I think the Asian-Pacific Americans have made a contribution to the needs of our country, but unfortunately not under pleasant circumstances.

Madam Speaker, years ago, the former Secretary of State Henry Kissinger made a comment about certain Pacific Islanders known as Micronesians. He said, "Well, there are only 90,000 of them. Who gives a damn?"

Well, Madam Speaker, I give a damn. These Pacific Islanders were subjected to severe nuclear contamination at a time when we exploded the biggest hydrogen bomb in the Marshall Islands in the late 1950's and early 1960's. Yes, Asian-Pacific Americans have made contributions, and I am very grateful for the fact that we have now come to recognize their service and contribution to our Nation.

With that in mind, Madam Speaker, I would like to close my remarks by simply saying, what is America all about? I think it could not have been said better on the steps of the Lincoln Memorial when the late Martin Luther King said, "I have a dream. The dream will be that one day that my children will be judged not by the color of their skin but by the content of their character."

That is what America is all about, and that is what the Asian-Pacific Americans want to do and hope to do, while being an integral part of the greatest nation on Earth.

Mrs. MINK. Madam Speaker, I am privileged to join my colleagues here today to celebrate Asian-Pacific American Heritage Month and to recognize the achievements and contributions of Asian and Pacific-Americans in our society.

I want to thank my esteemed colleague, the delegate from American Samoa, ENI FALEOMAVAEGA, for his leadership in organizing this event and for giving us this opportunity to share with the Congress and the American people more about our experiences as Asian-Pacific Americans.

Like the many immigrants from the West, those who have come to this country from Asia and the Pacific bring with them a rich cultural heritage that has become a part of the complex and diverse set of traditions, mores, values, and customs that make up American culture.

From first generation Americans who fled their homeland because of political strife to third, fourth, and fifth generation Americans whose ancestors came many years ago to seek their fortune in this new land of opportunity, Asian-Pacific Americans have enriched and enhanced this country.

Today Asian-Pacific Americans are the fastest growing demographic group in the Nation. Although this group currently comprises only about 3 percent of the U.S. population, it increased in size by over 100 percent from 1980 to 1990. And there is every indication that this rapid growth of the Asian-Pacific American community will continue throughout the next century. It is estimated that by the year 2020 the Asian-Pacific population will be about 20 million, a 177-percent increase from 1990.

Americans of Asian and Pacific Island ancestry have gained national and international prominence, making a distinctive mark in just about every aspect of our society—in science, business, education, medicine, in the arts and in athletics. Just the other night I joined Mr. FALEOMAVAEGA in honoring Al Noga, a professional football player of Samoan ancestry who has joined the Washington Redskins.

While many Asian-Pacific Americans have been successful in their respective fields, these individuals represent a minority of the Asian-Pacific community. There is a wide spread myth that Asian-Pacific Americans tend to do better than other populations, that we have achieved high educational and economic status in society and therefore are doing well. We've even been dubbed the model minority.

However, this is not really the case for most Asian-Pacific Americans. While many have achieved educational and economic success, most Asian-Pacific Americans are not in the upper rungs of the socioeconomic ladder.

This myth of the model minority does not take into account that most Asian-Pacific Americans are newcomers to our Nation and face countless language, social, cultural, and economic barriers. Of the 9 million Americans of Asian and Pacific Island ancestry over 65 percent are foreign born.

This myth does not take into account the large differences among Asian-Pacific American subgroups. Though we are grouped together under the Asian-Pacific American heading, this population is really a collection of communities across this country with origins from a wide variety of places, including Malaysia, Japan, Laos, Samoa, Korea, Guam, China, Vietnam, Hawaii, the Philippines, India, Cambodia, Indonesia, Tonga, Fiji, Palau, and the list goes on.

Language barriers, health problems, access to education, poverty, discrimination, the glass ceiling, and anti-Asian violence, each community struggles with specific problems with unique effects on their population.

Fourth and fifth generation Chinese and Japanese-Americans achieve high educational status, but employment in the top positions of business and government continue to elude them.

Newly arrived Southeast Asian Americans have difficulties with access to English language classes or bilingual services that can help them attain employment.

The native Hawaiian people struggle to be fully recognized as an indigenous population and receive certain rights accordingly.

Americans in the Pacific Islands watch helplessly as Federal education dollars continue to dwindle making it more difficult to provide adequate education to their children.

Health problems among Asian-Pacific populations also vary. Cancer is more prevalent among Chinese, Japanese, and Filipino Americans. Filipinos have a high incidence of hypertension, and Southeast Asian refugees have a high prevalence of tuberculosis, hepatitis B, and anemia. Native Hawaiians are five times more likely to die from stomach cancer than their Caucasian counterparts, and have the highest incidence of diabetes of any population in the United States.

Access to culturally sensitive health care is almost nonexistent. The few community health centers that serve these populations are underfunded and understaffed.

Asian-Pacific Heritage Month is a time for us to recognize the many diverse experiences of the Asian-Pacific Americans. To extol and celebrate the achievements we have made in American society, but also to acknowledge the difficulties we face on a day-to-day basis in our quest to find a just and equitable place in American society—a place where Asian-Pacific Americans can continue to grow, succeed, achieve, and contribute to the social, economic, and cultural progress of our Nation.

Mr. ABERCROMBIE. Madam Speaker, my home State of Hawaii is widely known for its aloha spirit. The warm and gracious hospitality of our people has left an indelible mark on those who have touched our islands' shores. In our State of Aloha, people of all races, creed, and religion live in harmony. There is more than a sense of tolerance for differences in our State, there is pride in our diversity.

Throughout our islands' rich history, we know that the Hawaiians opened their arms to welcome those of Japanese, Chinese, Portuguese, Filipino ancestries. These first groups were later joined by Koreans, Vietnamese, Laotians, Micronesians, and many other groups from different parts of the globe. As a Representative of this diverse State—the 50th State in a nation of immigrants—I am proud to recognize Asian-Pacific Heritage Month.

Asians and Pacific Islanders are the fastest growing group in the United States and play an increasingly influential role in American life. Like other immigrant groups before them, Asians and Pacific Islanders have continued the proud American tradition of furthering the greatness of this country. They have contributed much in the areas of education, business, and government. Without doubt, they too have strengthened the fabric of our society.

Madam Speaker, as we recognize Asian-Pacific Heritage Month, let us also turn our attention to the alarming acts of violence aimed at the 7.3 million Asian-Americans in the United States. Let us not close our eyes and ears to the report of the Federal Civil Rights Commission, which found that Asian-Americans "face widespread discrimination in the workplace and are often victims of racially motivated harassment and violence."

As our country faces these times of recession, it seems that there are those who have found Asian-Americans to be a convenient target for their frustrations—scapegoats for these troubled times.

The first wave of attacks included the 1982 brutal death of Chinese-American Vincent Chin in Detroit by two laid-off auto workers who were reported to have made obscene remarks about Asians and Japanese cars. Today, nationally syndicated columnist Clarence Page notes that attacks against Asian-Americans are less random and include specific targets like community centers, senior citizen facilities, and private homes.

Madam Speaker, this ugliness shakes the very foundation our country was built on. This great Nation was founded on the principles of justice, equality, freedom, respect.

As Members of Congress in these United States, we must take a strong stand against bigotry and discrimination. Let us not forget how our country, only 50 years ago, slipped into a moment of darkness when we interned our fellow Americans because of their Japanese ancestry and our suspicion of their loyalty to a nation they have never visited.

Madam Speaker, America was built by immigrants. Immigrants from the Western and Eastern Hemispheres. The fabric of American society burst with a rainbow of vibrant hues. A strike against one group is a strike against us all. We cripple ourselves by tolerating any act of violence against any group. As Abraham Lincoln once said, "A house divided against itself cannot stand."

As we recognize Asian-Pacific Heritage Month, let us be reminded that Asians and Pacific Islanders have joined other Americans in making America a great Nation. A nation where people of all races can live with dignity and respect.

Aloha.

Mr. MINETA. Madam Speaker, I would like to thank my good friend from American Samoa, Representative ENI FALEOMAVAEGA for arranging this special order tonight.

This is a particularly special observance of Asian-Pacific American Heritage Month, because it marks the first time we will observe this commemoration as a permanent national celebration.

It is also the first time we will mark that observance since the retirement of the author of heritage month, our former colleague from New York, Frank Horton.

Frank introduced the first bill establishing heritage week in the 1970's and later worked to expand this celebration to a month.

When Frank announced last year that he would retire at the end of the 102d Congress, he called me soon after.

He called to let me know that, for his final project as a Member of Congress, he wanted to permanently establish May as Asian-Pacific American Heritage Month.

I was very proud to join him in that effort. The legislation he introduced passed unanimously in both the House and the Senate, and I think that is truly a testament to Frank's dedication.

But equally important, it is a testament to the work of the Asian-Pacific American community in making heritage week, and heritage month, such a tremendous success.

The 1990 census showed that ours are the fastest growing communities in the Nation. Every day, in all walks of life, Americans who trace their ancestry to Asia or the Pacific Islands are making vital contributions to the life of our Nation.

Sometimes we forget that, I think.

Sometimes we forget that the Asian-Pacific agenda for the 1990's is an American agenda.

Ours is an agenda that demands participation in the political process at all levels of society, at all levels of public service, and at all levels of government—from the grassroots up to the White House lawn.

We are moving into those positions of authority and public service, and we will continue to do so.

But each of us has an obligation to always remember where we come from, who we are, and how much we owe to our community.

More than anything else, that is the spirit of heritage month. Remembering our roots, building a future for those who will come after us, and making our full contributions to this great Nation.

We are diverse, complex communities.

Each Asian Pacific group has a unique culture, a unique outlook on the world, and unique needs.

Forging a recognition of that diversity, and the ability of governments to respond to it, must be our highest priority.

It is a goal well within our reach.

In these last years in particular we have learned a powerful lesson: how to come together to fight discrimination wherever and whenever it occurs.

We fought hard to ensure that our diversity was recognized in the 1990 census, and we succeeded in preserving the checkoff format that was used in 1980.

In health care, the enactment of the Minority Health Improvement Act finally recognized that our communities are as diverse in terms of health as they are in culture and language.

Together, we succeeded in forcing the FBI to collect data on hate crimes around the country.

Together, we ended discrimination by the United States Government against Vietnamese-American fishermen who fell victim to the selective enforcement of a centuries-old law.

Together, we succeeded in redressing the grave injustices done to Americans of Japanese ancestry by the United States Government during the Second World War.

We succeeded because we rightly argued that those issues of basic equality, fairness and justice are not just Japanese-American issues, or Asian-Pacific American issues.

They are simply American.

We must and will continue to work together to fight discrimination wherever and whenever it threatens anyone in our society.

Later this year we will be working to make sure that reform of our health care system ensures that all Americans receive the health care that they need—regardless of their language or cultural backgrounds.

We will be working to repeal the special interest exemption given to the Wards Cove Packing Co., in the Civil Rights Act of 1991.

And we will be working to eliminate the artificial barriers which inhibit our full participation in the work force. Glass ceilings must be shattered once and for all.

Will we succeed in this? You bet we will, because we will continue to move away from the stereotype in the American consciousness of being a model minority, and toward acceptance as fully American.

How will we do this? By standing up for ourselves and our country, and by challenging our great Nation to live up to its highest ideals and principles.

Let me offer you an example.

During the war in the Middle East, the FBI conducted interrogations of Americans of Arab ancestry.

People were asked if they were loyal to this country—and the only justification for the question was that by accident of birth they were of Arab ancestry.

That justification is no justification.

Some of us here in this room can tell you why—from personal experience.

When Americans of Arab ancestry were being threatened, we were among the first to stand up and say, "Stop!"

We did so because we know the pain, and the injustice, of having others doubt that we are fully American.

I remember several years ago when I gave a speech about United States-Japan trade.

Afterward, one of the corporate officers who was at the event came up to me and said, "Gee, Congressman. Your English is excellent. How long have you lived in our country?"

I wondered then whether he was really hearing an accent, or whether he simply was seeing a face that fit his definition of "foreign."

I still wonder, but at the same time I know this: There is no such thing as a foreign face in America.

That is the lesson of American history, and the promise of our great Constitution.

We as Asian-Pacific Americans have learned powerful lessons about diversity.

We have learned that diversity is our greatest strength, and not a weakness to be overcome.

Let there be no misunderstanding. We are unique individuals. Our communities are unique, adding into the tapestry of peoples and cultures that gives the United States its strength.

But the great genius of America is that, unlike other nations of the world, Americans are not bound together by a common racial heritage, a common religion, or even by a common language.

Rather, we are bound together as a society by our shared commitment to the principles of our great Constitution.

This central truth has allowed people of every race and religion to proudly call themselves Americans.

I am very proud that, each year, Asian-Pacific American Heritage Month will continue to serve as a celebration of the rich diversity and vitality that truth has given our Nation.

Once again, Madam Speaker, I would like to thank my good friend from American Samoa for all of his work in arranging for this special order. He is truly an outstanding leader of our community.

Mr. MATSUI. Madam Speaker, it is with great pleasure that I rise today to celebrate Asian-Pacific American Heritage Month and recognize the contribution Asian-Pacific Americans have made to our Nation.

We honor Americans of Asian and Pacific Islander descent during the month of May as an acknowledgement of the labors and hardships of the first Asian-Pacific Americans who settled in the United States and the accomplishments of the generations who have followed.

Over 150 years ago, the first groups of Asians and Pacific Islanders came to the United States, bringing with them skills and traditions that enhanced the diversity upon which this country was founded. Asian-Pacific Americans have provided the United States with a rich culture, a dedicated work ethic, and a loyal family commitment.

The strength of the Asian-Pacific American commitment to their community is apparent throughout all sectors of our society. Today, five Asian-Pacific Americans serve in the House of Representatives and two in the Senate. Asian-Pacific Americans are represented in the White House and in positions throughout the Federal Government. In the private sector, Asian-Pacific Americans have made their presence felt in the arts, business, education, and legal communities, to name a few. Asian-Pacific Americans sit on the boards of large corporations, own small businesses, and teach in many universities and colleges across the United States.

As we celebrate this month of achievement, we must also pay tribute to the sacrifices made by Asian-Pacific Americans over the years. Asian-Pacific Americans have had a turbulent history in our country, the years of internment during World War II representing the lowest moment in the lives of many who came to embrace the ideals and traditions of American life.

Asian-Pacific Americans are an integral part of the United States, a nation based on diversity and opportunity for all. We need to further the ideals instilled by the Nation's founders who came here from other countries to build a home where all people would be accepted and encouraged to achieve their dreams. During this month of celebration we must continue to advance these truly American ideals and continue to work to ensure this spirit of equality exists now and in the future.

Mr. Speaker it is with great pleasure that I rise to pay tribute to Asian-Pacific American Heritage Month. I ask my colleagues to join me in congratulating the members of the Asian-Pacific American community on their achievements.

Mr. UNDERWOOD. Madam Speaker, aloha, taloa, hafa adai, yokwe, aroha, kia orana; buenas, hamjo todos.

Earlier this month at a special White House ceremony, President Clinton officially proclaimed May as "Asian-Pacific American Heritage Month." There were numerous events,

such as the White House ceremony, held throughout the country honoring Asian-Americans and Pacific Islanders. And I, as well as the Honorable ENI FALEOMAVAEGA attended and spoke at many of these events.

I understand that May is also Hamburger Month, and while we may not attract as much attention, it is clear that we are becoming a serious cultural and social force in American life.

The country's celebration of our heritage month did not come easy. For years, it was uncertain whether we would have this special celebration. For years, we have had Hispanic Heritage Month and Black History Month recognized by statute. Not until 1992 did we have, signed into law, a bill to officially declare the month of May of every year as the "Asian-Pacific Heritage Month."

We are glad of this special recognition, but how do our fellow Americans view us? And where do we Pacific Islanders fit in as part of this rather large, broad category of Asian-Pacific Americans. When our fellow Americans hear the term Asian-Pacific American, they often think of the Chinese building the railroads in the Western United States; or the Japanese citizens of this country who were not trusted during World War II and were taken from their homes and interned for the duration of the war; or the Koreans seen as taking over the inner city mom and pop grocery stores; or the close-knit, extended families of Filipinos in many major cities across the country.

Because our numbers are small as Asian-Pacific Islanders, there is the perception that Asian-Americans and Pacific Islanders don't count in the national scene. And when we consider that Pacific islanders are clearly a junior partner in the Asian-Pacific Islander coalition, Pacific Islanders end up faceless and rather insignificant.

The sheer numbers of Pacific Islanders are relatively small, compared to the total number of people in the United States. According to the 1990 census, there are only about 360,000 Pacific Islanders out of a total of approximately 249 million individuals in this country—less than one-half of 1 percent.

Quite often, Pacific Islanders are forgotten, and/or ignored, and/or misunderstood, or all of the above. How many Americans know that Pacific Islanders come from a diverse group of people? How many high school graduates in this country can identify at least two distinct Pacific Island groups?

What images come to their minds when one says that so and so is Chamorro, Samoan, Tongan, is a Polynesian, is a Micronesian, or is a Melanesian? What images come to their minds when they hear the words Chamorro, Samoan, Tongan, Polynesian, Maori, Micronesian, or Melanesian?

However, the question should not be just who we are as Samoans, Chamorros, Tongas, but who we are together—who we are as Pacific Islanders.

Who are we as Pacific Islanders? We are the voyagers who saw the world's largest ocean as the pathway to our homelands.

Who are we as Pacific Islanders? We are the builders of cultures in small island settings which rely upon family connections and networks, i achafnak, the parientes, aiga, the Ohana.

Who are we as Pacific Islanders? We are the creators of myths, stories, and legends which are at once elegant in their presentation and inspirational in their meaning.

And we are still Pacific Islanders as we live in the land of freeways and skyscrapers rather than the more familiar warm tropical waters; as we gather in hotels and conference rooms rather than around the hale, the fale, or the plasa. And we are still Pacific Islanders as we live in places where we have but few relatives, and as our children hear new myths and stories to interpret their existence.

So as we ask the question: Who are we, and as we bear witness to the spirit, the energy, and the warmth of celebrating Asian-Pacific heritage, we continue to be proud, we continue to celebrate, and we simply continue to be—we survive as proud inheritors of the strength, the intelligence, and the spirit of our ancestors who gave the Pacific Ocean to the world of humanity.

There is something fundamental about being Pacific Islanders, and it doesn't lose its significance even in places like Washington, DC, Chicago, Houston, Long Beach, or San Diego, places so unlike the communities in Guam of Dededo and Malesso', the community of Pago in American Samoa and the community in Hawaii of Waipahu, the community of Majuro in the Marshall Islands and the community of Rarotonga in the Cook Islands. Celebrating Asian-Pacific Heritage nurtures our spirit, let us share it, let us be invigorated and strengthened by it so that we can proudly say who we are in these distant lands—Pacific Island natives, people of the land.

While I have spent a great deal of my life arguing for cultural survival in political as well as in educational circles, in that struggle the politics of culture has revealed itself in a variety of forms. It is obvious to many that the desire for cultural survival has political consequences. We can see this in the efforts to reorganize political structures in order to accommodate the desire for cultural maintenance.

This spirit is alive in Guam. And this same spirit is alive and well throughout the Pacific, in Melanesian communities, in French-speaking areas, and in areas where our Pacific Island brothers and sisters have become minorities in their homelands—Aoteoroa and Hawaii.

And these cultural lessons have political overtones, because we cannot take pride in ourselves without taking a close look at who we are in political terms, social terms, and economic terms. The explosiveness of political status issues is manifest nearly everywhere in our homelands. From the Commonwealth movement in Guam, to the concerns of the people of Kanaky or New Caledonia, or the sovereighty movement of Hawaii, we are witnessing the political expressions of Pacific Islanders who are now emerging from one, two, or three centuries of colonial rule or colonial thinking.

As Asian-Pacific Americans, we cherish our history and our culture. More importantly, we deeply respect and honor our country where diversity is an asset rather than a liability, where ethnic cleansing is considered to be an atrocity and not a necessity, and where a Holocaust is considered an abomination and not a celebration. Asian-Pacific Americans are proud citizens of this country which allows us to retain our cultural identity and share it with the rest of our fellow Americans and which recognizes the importance of celebrating our diversity by designating a special month for others to learn about our culture. God bless the spirit which created Asian-Pacific Month and God bless us all.

Si yu'os ma'ase, mahalo. Maila' ta fan danna'. Hita ni' man taotao tano'.

VACATING A SPECIAL ORDER AND REINSTATEMENT OF A SPECIAL ORDER

Mr. DORNAN. Mr. Speaker, I ask unanimous consent to vacate my 5-minute special order tonight and, in lieu thereof, be permitted to address the House for 30 minutes.

The SPEAKER pro tempore (Ms. MCKINNEY). Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 105. Concurrent resolution providing for an adjournment of the House from the legislative day of Thursday, May 27, 1993 to Tuesday, June 8, 1993 and an adjournment or recess of the Senate from Friday, May 28, 1993 until Monday, June 7, 1993.

THE PRESIDENT AND THE MILITARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 30 minutes.

Mr. DORNAN. Madam Speaker, when the session started today, I said I would come to this well and give my observations on what has partially caused the current sitting President's problems with an overwhelming majority of all of our men and women who serve in our great military Armed Forces, every branch, every age range, NCO corps, officer corps, warrant officer class, young recruits, those who go above and beyond what is required of our young people that volunteer for very dangerous assignments, submarine work, flying of any kind, ranger training, jungle training, survival training, desert training, those who are in elite units that demand the absolute Olympic athlete perfection of their young bodies, like Navy SEALS and Delta Force in the Army, many Marine units.

Why is Mr. Clinton having a problem with all these people?

I mentioned that he would be going up to speak at West Point this weekend, over the Memorial Day holiday. And there are some reports that he is

going to sort of force himself on a visit to the Vietnam Memorial, even though many, many thousands of veterans have written to him, some respectfully, and said, "Please, sir, back off for a while. Maybe next year, but don't come roaring in here with all of these problems, cutting our pay, savagely drawing down the military establishment beyond President Bush's $50 billion cuts and drawndowns, trying to force homosexuals and lesbians into a military culture that overwhelmingly rejects this for all sorts of reasons that do not apply to any other work field in this country. Don't come to the Wall."

But it appears Mr. Clinton is going to the Wall, and he is going to West Point.

Now, Annapolis midshipmen have already been commissioned, young ensigns in the United States Navy, many of them commissioned second lieutenants in the U.S. Marine Corps going off to advanced training, some of them to pilot training. Many of these young people do not have many years left. They will die in training accidents. Some of them will die in high performance jet aircraft, F–14's, F–18's, Harriers, aging A–6 Intruders.

This class felt very fortunate that they had a war hero to address them at their commencement, my colleague from this Chamber, JOHN MCCAIN, who went on to great distinction further in our other legislative body, in the U.S. Senate.

He was the son of a CINCPAC commander in chief of the Pacific Forces, a principal commander selecting targets in North Vietnam, when his young son JOHN was shot down. JOHN is the grandson of a 4-star Admiral. His great father John McCain II, the III, who was, again, the commander of all of our bombing, and during the period when JOHN was shot down, he was called the prince by the North Vietnamese.

□ 2150

He was offered the opportunity to return home at any time to show the untender mercies of the Communists in Hanoi. He served with distinction as a prisoner of war and as a young attack pilot before that, requalified flying, went on to become an excellent squadron commander down at Cecil Field in Florida.

Here was a man the cadets could look up to, a man capable of giving an inspirational speech. I met a young, brandnew ensign out in front of the Capitol today with his dad who was badly wounded, torn up in Vietnam, so proud—he was Army—so proud that his son went to Annapolis. Sherman van Rude is my friend, and his son is Steve.

I said to Steve, "MCCAIN is pretty good, huh?"

"Wonderful, Congressman, inspirational; really set us off on our career in a beautiful way."

Then we discussed some other things. He was a choice by the student body at West Point. Les Aspin, our former colleague, now Secretary of Defense, is going to speak out at the Air Force Academy this week; Les, a very intelligent man, a hard worker here, but now known for inspirational speeches; he will do well out there.

However, it is the President's problem at West Point that I have given some thought to. I wrote down some remarks. I will read them and then comment on the President's continuing errors of these phony photo ops, Madam Speaker, that he pushes in the face of the military culture, and that keep compounding and exacerbating the problem that he had already coming into office as someone who had forced three men to go in his place when the time came for him to answer the draft call of his country.

The third time, which is still known by just a tiny percent of Americans, Mr. Clinton at Oxford at 23 years of age, already a graduate student, halfway, a year and a half through his graduate program, or excuse me, at the end of his first year in the graduate program, already having a college degree from Georgetown, was drafted; that is a verb, past tense, "ed", drafted. He had a showup date. He was inducted. You don't ever get that turned around. He had a showup date of July 24, 1969, to report to a recruiting depot for the U.S. Army.

He came home and used Republican and Democratic powerful political connections—Senator STROM THURMOND here in Washington, a liberal Republican; Gov. Winthrop Rockefeller down in Arkansas—and he got his draft induction showup date suppressed, crushed, turned around, politically turned upside down, and some other young man had to take his place and probably ended up in Vietnam.

I hope for the President's sake, and some day that will come out, that young man made it home, not in a wheelchair, not with a limb missing, but let us hope he made it home.

Madam Speaker, as the President prepares to address the graduating class of our 190-year old Military Academy at West Point this weekend, and as Americans across our country take time to honor this Memorial Day, to remember those who, according to our greatest President ever, Abraham Lincoln, gave the full measure of devotion, quote-unquote, their lives, I urge everyone to recall and contemplate the stirring words of the most distinguished graduate of ever of the Military Academy at West Point, Medal of Honor winner, hero, former West Point Superintendent, Chief of Staff of the Army, hero in World War I as a regimental commander, colonel, commander of the Rainbow Division, World War II, courageous stand at Bataan and Corregidor, ordered out by Franklin Roosevelt to go to Australia, promising and keeping that promise, "I shall return," the words still ring down through history. I speak, of course, of General of the Army, Douglas MacArthur.

He addressed the Corps of Cadets. He was only to live less than 2 years after that. On May 12, 1962, he was receiving their award. It is always given in the cadet cafeteria, in a more informal setting.

I, several times on national radio, in the month of May, which we are now in, so we are coming up on it, we just passed the 31st anniversary of General MacArthur's address to the Corps of Cadets. I have read his speech in its entirety on this House floor I think twice, on the now uncomparably successful Rush Limbaugh show, and I always fall into a little of the staccato or pattern of Douglas MacArthur when I do this, not to attempt imitation, because I just cannot resist the beautiful rhythm of his words.

I will tonight just quote one paragraph, and maybe when we come back put in the full remarks.

I will quote from the words of Douglas MacArthur just one key paragraph, and I hope the President will reflect upon it. I hope he will read the whole address, to capture some of the feeling of what a special place to military people of all the services that beautiful campus is on a knoll overlooking that breathtakingly beautiful Hudson Valley.

MacArthur at one point slowed in his address and said the stirring words, which are the clarion call, the motto of the Cadet Corps at West Point. He said:

> Duty, honor, country: These three hallowed words reverently dictate what you want to be, what you can be, what you will be. They are the rallying point to build courage when courage seems to fail; to gain faith, when there seems to be little cause for faith; to create hope when hope becomes forlorn.

On Memorial Day, Madam Speaker, our 1993 graduates of our U.S. Military Academy at West Point, and all those young men and women in the service and aspiring to be in the service, that they may be called upon to lead into battle, will certainly be thinking about the countless veterans, some of them a veteran of several wars, like Douglas MacArthur, whose valor and sacrifice set such an inspiring example for those now in uniform.

Madam Speaker, I hope Mr. Clinton will please remember our dedicated military people, past and present, this holiday weekend.

Before he speaks at the Point, I hope he will recall all of the heroes from Concord Bridge and Lexington Green who gave their lives or offered their lives in April of 1775, right down to the young troopers of Desert Shield, Desert Storm, and our young men and women who brought mercy to the starving people of Somalia; reflect on their sacrifice and service, Mr. President; read carefully that entire address of General

MacArthur, where he spoke of his last thoughts being about the Corps, the Corps, and the Corps. He said that would be the focus of his final thoughts: West Point and the Cadet Corps.

Try to capture that military concept: duty, honor, and country; weigh that against, in your memory, what you thought in favor of the enemy achieving victory in Vietnam at those teach-ins that you organized in London and up in Oxford in 1969 and 1970; reflect that morale is key in importance.

If you succeed in lifting the ban against homosexuals, despite other priorities, such as draw-down, mission in the military, combat readiness, and the rights of the majority in our services; if you succeed in more than doubling the defense cuts proposed by your predecessor, including drastic personnel cuts, another 100,000 in 1994; if you succeed in gutting strategic defense, despite a newly growing ballistic missile threat with a different terror than the massive threat of the evil empire, but still the capability of taking out entire U.S. cities, or the cities of our allies; if you succeed in cutting family housing by nearly 7 percent—number three, if you cut the military pay raise, despite the widening gap between the military and civilian pay, despite continued hardship in the military, including lengthy time away from family and home; if you continue a peculiar course of self-image destruction with $200 haircuts and personal service contracts with elitist hairstylists from Beverly Hills; if you, four, allow the assignment of women to combat positions, particularly on the ground, despite the findings to the contrary of a blue ribbon Presidential commission last year.

□ 2200

No provision to ensure fair and equal standards for these positions, regardless of gender. The scandal of the gender norming, not striving for a fair playing field, which the Olympics do in athletics, no provisions to prevent false quotas of one gender or another in positions; and

Fifth, if you still desire, and I think this is ending, to put American men and maybe women into harm's way in Bosnia, despite, despite advice against such a move from nearly every single military expert on the issue, including former Supreme Allied Commander in Europe, Gen. John Gavin. I had the honor of hearing his testimony again here 2 days ago. Or the former U.N. Commander in Yugoslavia, Canadian Gen. Louise McKenzie. It was a pleasure and an honor meeting him and discussing sportscar racing after we had exhausted 4 hours all of the complicated ramifications of this tragic three-way civil war in the former Ottoman Province of Bosnia Herzegovina. If, in spite of the lack of clear military objectives which would ensure our success in the gulf war, you feel impelled, for whatever reason I cannot fathom, to risk and lose lives in that area, in spite of a lack of clear public support for an operation that will require the cost, the time, and the casualties necessary to achieve victory ultimately on the ground, if all of these five actions by our President, Madam Speaker, make up a clench fist of those five issues thrust into the guts of our military, then I have to think of Napoleon's famous quote. This comes from the military genius, and for whatever his political failings and self-evils were, and the horror he inflicted upon Europe, he is a genius in military terms. This is the man who gave us the accepted truism, "An army travels on its stomach." But when it came to morale, Napoleon Bonaparte said morale makes up three-quarters of the game, the conflict, and the relative balance of manpower, superior forces and numbers, that accounts for only the remaining quarter. His quote purely given is, "Morale makes up three-quarters of the game. The relative balance of manpower accounts for only the remaining balance."

What is our answer to the President's fist of these five issues into the solar plexus of our military and the seeming total lack of appreciation for duty, honor, and country remains to be seen.

Let me briefly discuss some of these photo ops. Ordering the highest decorated serving American who had been viciously insulted in the White House by a young Clinton staffer who said she would not say good morning to him because he was wearing the uniform, and that is a true story. There were a lot of fake stories that have spun out of that one, but that is a true story. I went to the source. I went to Colin Powell, the highest uniformed commander in our country. It happened. I talked to all of the Joint Chiefs of Staff. It happened. And then they all rushed to tell me that a lot of fake stories were coming out of it.

But Barry McCaffrey, who was the commander of the point of the spear, the 24th Infantry Division, mechanized, the point of the spear, the first ones across the desert berms, to sweep that Hail Mary, as General Schwarzkopf called it, a left hook around with the French covering one flank, the British, our airborne guys the other, reaching all the way into the heartland of the invading country of Iraq, liberating Kuwait, and reaching the historic Euphrates River, Barry McCaffrey, severely wounded in Vietnam, three Purple Hearts, four or five Air Medals, two Bronze Stars with valor, maybe three or four, two Silver Stars. That is the highest decoration that most people get and live, although most are still posthumously awarded. But on top of all of that he has two Distinguished Service Crosses. In the Navy that is called the Navy Cross. My squadron commander was the first living recipient, a great air war hero, Robbie Reisner, still with us, thank God, after 7 years of captivity. He came back from Vietnam to get the Air Force Cross when we established our own medal, because prior to that air combat's highest award under the Medal of Honor was this Distinguished Service Cross. Barry McCaffrey has two severe wounds where you can see the wounds from one of his Purple Hearts, and this man is insulted in the White House, and that was bad enough, but to have him ordered then to come up to Vancouver, Canada, after the Yeltsin summit and go jogging with the President as a photo op, this was something that did not go down very well with the military. And here is this jogging, and the Navy Seals, and this looks like two Pillsbury Doughboys jogging with iron men, and it looks like pyramids turned upside down, you know, the body starts up here and comes down to something like a 20-inch waist, and it was a photo op, not a good photo op, but a forced photo op.

Then there is the worst one of all, the terrible scene out on the south lawn at the White House. I have never in all of my life heard of a military person getting the honor of coming to the White House while they are on active duty, in uniform, and not wearing the class A uniform. That means every bit of the brass, with the wife or the husband, whatever the case may be, measuring with a ruler to make sure it is perfect, all of the combat decorations, the service ribbons, the badges from special service, foreign decorations over here, wings, surface combat, ship decorations, paratrooper wings, everything on perfectly, that is the way you go to the White House. The only thing better than class A, if it is a night function you wear your mess dress uniform, the military version of a tuxedo, which, of course, the Marine Corps putting everybody else to shame with all of those bright red collars and linings. That is what you go to the White House in. You do not go in dungarees and work clothes, even if it is the colorful desert camouflage, the desert camis from Desert Storm.

But the President ordered General Schwarzkopf's Chief of Staff, who became the commander in Somalia, a marine general, three stars, born in Scotland, came here at 18 years of age, entered the Marine Corps and decided to give it his life, Robert Johnston, lieutenant general. He was ordered to come in his camouflage work clothes. If these were some of our wonderful young mechanics from the motor pool, they would have come in their greasy overalls. But that is your work clothes in the desert, in Somalia or in the gulf war. And they were ordered to come, two of them with three-star generals, in their camouflage work clothes.

And then the President tells them to fan out, to line abreast, and I guess he

is getting a kick pretending that he is the Commander in Chief. And then the microphone is placed so far down at the White House that at the picnic this year, the congressional barbecue, if I go I am going to pace it off, and I am sure that it is more than half a football field, 50 yards. And then what did the President do? Did he say, "Forward, hut?" I doubt that. He probably said: Forward, march, or let's go, or kick this thing off, or even starts walking in what Rush Limbaugh called his new blue suit. And I could see the marines, their eyes looking at an angle at the Commander in Chief's legs, and wondering do we stay in step with him? I noticed that General Johnston was attempting to stay in step.

Not even all of the hats are the same. Some of the hats are the old World War II floppy KP hats in camouflage, or they were wearing different styles of hats, and they are all coming down in this loose kind of a line, 22 people in working clothes to create a photo op, as though this sitting President had sent them there, which he did not. That was President Bush. And he did not even really order them home. Their time was up. Their mission was accomplished. Some were still there, and the main force came home in the course of the operation to help the starving Somalis rid themselves of some of their warlords, and that's the way the mission was designed.

What an offensive photo op to the military.

And then there is a whole series of awkward, half salutes, strange salutes given, getting on and off of the Marine Corps helicopter. At one of our military hearings over here in the Armed Services Committee I just took the time to look right at my friend, Les Aspin, our Secretary of Defense, and this great general, Colin Powell, and I said gentlemen, can you please give the President some advice, because I am sure that he will not take it from me. Will you tell him to stop doing crossword puzzles and reading mystery novels. They are fun, but he should be reading something about the military so he can understand that culture, and tell him that when he is uncovered, no hat, to not attempt a salute.

President Reagan kind of had an arm that would not stop because he had spent 3 or 4 years on active duty in uniform, and as a father of two, and he served as a cavalry officer, and then in the Army Corps, and then as an Army Air Force officer, so it is kind of hard not to return almost automatically a sharp Marine Corps salute. But if you cannot make your hand into a knife blade like a sword, if you cannot bring it up with the arm at a 45-degree angle, with a regulation salute, or rather the informal snap salute across your chest, which you can do if you are not on the drillfield, then do not attempt one of these things where you bang into your eye.

□ 2210

"Just don't do it," I told Colin Powell. If they delivered the message to the President, I have no way of knowing, but when he wears a ballcap off the U.S.S. *Teddy Roosevelt*, wears that ballcap, puts on a combat flight jacket with combat units' patches and gets off the Marine helicopter, that picture is in today's Washington Times right next to the wall-to-wall color picture of this offensive photo op on the south lawn of the White House; if he does not stop doing these things and pushing it in the face of the military culture, he is going to continue to exacerbate his problem as though he is a man sinking in quicksand until it is finally over his head.

That moment will come, by the way, if he succeeds in ramming through male homosexuals and lesbians, calling them by an adjective, "gay," into the military. If he wins that battle against distinguished Senator SAM NUNN and distinguished Marine officers that serve here like JACK MURTHA, if he wins that battle and beats them down, believe me, he has disappeared into the quicksand.

So I would say that my freestanding bill, 667, to maintain the ban, which has less than 100 sponsors in this Chamber—and legislation has finally been introduced on the other side—that bill will probably be rolled into an amendment on an appropriations bill or a conference report, and we may save him from that fate.

We have got to slow down the cuts. We just cannot continue forcing good people out and then using the military as a social laboratory.

I have another bill in, H.R. 1670, to restore the pay raise partially, at least, to our young enlisted kids. Many of these young families are on food stamps. I talked to marines at Camp Pendleton who are literally qualified and do draw food stamps.

A full pay raise for the military in 1994 to again stop this gap from widening between civilian pay and military pay and then fairness in assignments to combat positions so that there are equal standards, no quotas, no unspoken affirmative action, because there are a lot of careerists in all the services that will maybe toe the mark to advance themselves at the expense of combat leadership, or combat cohesiveness, and then firm leadership in Europe on Bosnia before deploying any troops.

I am going to close with a Napoleon quote and then yield to a good paratrooper Army officer with Vietnam combat experience.

Here is what Napoleon said, and I will deliver it to you, Mr. DUNCAN HUNTER: "Every general in chief who undertakes to execute a plan that he knows to be bad is culpable. He should communicate his reasons, insist on a change of plan, and finally resign his commission rather become the instrument of his army's ruin."—Napoleon Bonaparte.

In other words, if the elected civilian Commander in Chief under our great Constitution, and I love civilian rule, and we are all the bosses in this Chamber and the other over the military to raise those Armies and Navies and Marine Corps and Air Forces and to fund the equipment they get and to set their pay scale and to protect them from being used as a social laboratory, but the Commander in Chief is the civilian head of the executive department, and he should resign from the Presidency, under Napoleon's advice, rather than be the instrument of the ruin of his Army, his Navy, his Marine Corps, his Air Force, or his Coast Guard, over in the Transportation Department.

Mr. HUNTER. Madam Speaker, I thank the gentleman for yielding. I know he is coming to the end of the special order.

Mr. DORNAN. That is it for me, DUNCAN.

Mr. HUNTER. I thought it was so interesting that I thought I would come over, and I just wanted to say that I thought it was interesting, when we had the debate on Somalia, that we had a number of people who had been, in my estimation, saying denigrating things about the United States military, talking about them as being unenlightened, prejudicial, and a number of other adjectives that were less than complimentary, and yet when we talked about sending them to Somalia, the same people said these were honorable, caring, wonderful people, and we were going to prove it by putting them in harm's way.

I thcught a little bit about that other poem by Rudyard Kipling about the British soldier that says, "It's Tommy this and Tommy that, and Tommy go away, but it's savior of his country when the band begins to play."

America's military people, our young people in uniform, are of finest quality right now. They have let us know through the polls that we have taken and the informal meetings we have had with them, and I know my friend BOB DORNAN has had a number of meetings himself with these military folks; they do not want to change the way we are doing business right now in the military. They do not want to change the finest military in the world. They do not want to lift that ban on homosexuals being in the military.

I think we should listen to them and listen to that 70 and 80 percent who have spoken out very strongly. I hope that some of our other leaders, because of your statements tonight, get that message, and I appreciate your words.

Mr. DORNAN. DUNCAN, if I could come back to Rudyard Kipling, I read a passage from Rudyard Kipling, and I apologize for a little play on words, because Lt. Col. Oliver North was testify-

ing, and it brought tears to Colonel North's eyes, and he told me later why. His father had long passages of Rudyard Kipling, at his request, read at the father's funeral, and I will not give the paraphrase that I use for Ollie, but following up that same stanza, as Kipling keeps coming back to it, "When the band begins to play," and it also gets into combat, and he says, "He's Tommy this, he's Tommy that, chuck him out of here, the brute, but he's the savior of his country when the guns begin to shoot," and that is a truism for every culture, every society through all of history.

People have no use for people who dedicate themselves to the profession of arms and peace, but when the fighting starts, they look for a cop, they look for a soldier, a sailor, an airman, a marine, a guardsman, or a reservist.

Thanks, DUNCAN, for coming over.

Madam Speaker, I have no time to yield back. I will stay around for the adjournment of the House and wish all of my colleagues and my friend ENI, who walked the battlefields of the Solomon Islands with me, I look forward to him adjourning this distinguished Chamber.

[The article follows:]

[From the Washington Times, May 27, 1993]

HAIL TO THE CHIEF

(By Sean Piccoli)

WEST POINT, NY.—Around the grassy quads and old stone walls of the U.S. Military Academy, where exams have just ended and graduation is a few days away, the buzz on this year's commencement speaker is best summarized by that old Beltway comeback where silence and self-interest intersect.

"No comment," says a first-year cadet in pressed grays and whites, when asked for his feelings about this Saturday's visit from the new commander in chief, President Clinton.

"I'd sure love to talk to you," says one senior, a muscular young man in gym shorts who is keying the door to his pickup. "But I can't. I'm a week away from graduation, and I don't want to do anything to get myself in trouble."

The silence is the story on this perfect Sunday here in the breathtaking Hudson River Valley as West Point prepares to send graduates into a new world order under the gaze of a president who is at odds with his own fighting force.

In keeping with tradition, Mr. Clinton is scheduled to address graduates and underclassmen at the 191-year-old academy Saturday. And while cadets say they are excited about the visit, other attitudes voiced here reflect an unhappy reality for the young president who once expressed a "loathing" for military culture: He is not popular with many troops, at many levels, from cadet dormitories to barracks to officers clubs.

His stance on Vietnam has followed him into the White House; he was mocked by enlistees and officers aboard an aircraft carrier in March. His stance on homosexuals in the armed services has bred still more resentment among soldiers, many of whom feel Mr. Clinton brought his "loathing" of yore into his new job.

The episode in which a Clinton staffer is said to have insulted Army Lt. Gen. Barry R. McCaffrey—a highly decorated and popular officer who fought in the Vietnam and Persian Gulf wars—has come to symbolize the discord between both sides. In conversation, those in the military now say "McCaffrey" the way most people say "Watergate."

"I think when [Mr. Clinton] came in, the relationship was certainly poisonous," says retired Army Col. Harry G. Summers Jr., a distinguished fellow of the Army War College and a syndicated columnist. "[But] I think that he has made a conscious effort to close that gap. . . . The West Point speech is part of that effort."

Recent events—photo opportunities and public appearances by the president with military figures—suggest the White House seems intent on shoring up its shaky relationship with soldiers, or least projecting to the public that Mr. Clinton is the undisputed leader of his military.

In a reception for troops returning home from Somali, Mr. Clinton strode across the South Lawn, Marines in fatigues arrayed behind him, in a picture designed to convey confidence and command.

After he returns from West Point, Mr. Clinton is scheduled to give the keynote address for Memorial Day ceremonies to be held at the Vietnam Veterans Memorial.

"He understands that he can't allow the rift to develop," Col. Summers says.

But some observers contend the rift is still wide.

"Of the four major services, I have been around three in recent months," says Rep. Robert K. Dornan, California Republican and a former serviceman, "and it is universal. I have never heard a single officer or enlisted man defend Clinton's . . . moral standing for leadership."

And for all the image management, the president still hasn't mastered a proper salute. Some veterans even have questioned his right to speak at West Point.

At the academy and points beyond, explicit endorsements of the new commander in chief are scarce.

"I mean, he's the president, and we should welcome him," says the freshman cadet who issued a firm no comment. "But as for those other issues. . . ."

He trails off, leaving the rest unsaid.

Wayne Anderson, 20, a sophomore cadet from Kansas City, Mo., freely admits that someone other than Bill Clinton got his vote on Election Day, but Mr. Anderson draws the line on dissent at Nov. 4.

"The bottom line is, he's the commander in chief," Mr. Anderson says. "I think people have accepted it."

Others agree. Says another first-year cadet, "We're behind him now."

Just like that. The Constitution says the military serves its civilian leaders, period. The concept is backed up forcibly by the Uniform Code of Military Justice. Article 88 makes any show of contempt toward the civilian chiefs of the military a crime punishable by court-martial, jail and discharge without pay.

These sanctions were not upper-most in the minds of Marines aboard the warship USS Theodore Roosevelt, who mocked the visiting president. Even officers aboard the aircraft carrier were less than deferential.

"Maybe we can call this his military service," one squadron commander told The Washington Post. "Three hours is more than he had before."

Mr. Clinton, the product of an era that made soldier-bashing part of its popular culture, is reaping what he has sowed, one observer says.

"While he was off doing his dodge [of military service] at Oxford, the guys that he's now telling what to do were off sitting in rice paddies up to their ankles in mud, getting shot at," says Steward Koehl, a Northern Virginian military writer and analyst. "And they can't forget that, nor will they.

"There is a perception that Clinton doesn't respect the military as an institution," Mr. Koehl adds, " and a belief that he doesn't understand the military's needs, and furthermore, doesn't care.

"He underestimated the intellectual capacity, the moral capacity and the resoluteness of the military when it comes to fundamental military issues [such as the ban on homosexuals]. He did it this way because he didn't really respect them. And now they're returning the compliment, so to speak."

Still, many soldiers and cadets, understandably, are not anxious to voice their disrespect on the record.

"I think he's trying to work on the relationship," says one of several camouflage-clad soldiers waiting for a haircut Monday afternoon inside the barbershop at Fort Belvoir. "I hope all that draft-dodging business is behind him."

The soldier with the opinions doesn't volunteer his name, but he is the only one of three seated together who volunteers anything beyond "I really can't talk."

Even before the election, there was fallout for certain kinds of candor. The spokesman for the Vietnam Veterans of America was fired last year for calling Mr. Clinton a "coward" because the future Arkansas governer and president had avoided military service during the Vietnam War.

More recently, a memo sent to military judge advocates states that the armed services should get used to abrupt changes in military policy under the Clinton administration. The memo also quotes passages of Article 88—a reminder of the boundaries on free speech in military circles. Some soldiers call the memo a gag order.

But silence always has been the better part of discretion in the military's chain of command.

"You can't have a personality conflict with your boss," Col. Summers says. "It doesn't work that way. He's commander in chief, regardless."

At Fort Belvoir, one Army officer declines to give his name but dismisses the advertised tension between Mr. Clinton and the military as "hype."

"We owe our allegiance to the Constitution of the United States, not to any particular individual," says the officer, a self-described "old soldier" preparing for a jog around the base track Monday. "And I think that's what you need to remember. It doesn't matter if it's LBJ, George Bush or Bill Clinton."

Indeed, the president may in part be a product of his place in history. No previous president has been handed the same set of choices and circumstances: Bill Clinton came of age with the domestic turmoil that erupted over Vietnam—a war that came to be actively opposed on the nation's streets and campuses—and he took the same path as many, though by no means most, other young men.

"Clinton consulted his conscience on Vietnam," says West Point junior Chris Sleight, 21, of Marlboro, N.Y., "and that's one of the founding principles of West Point: Follow your conscience. I have no problem with him for that, and I don't think many people do."

Mr. Sleight says if there is any difficulty the president faces with the military, it is that "maybe we can't relate to him as well."

A classmate, Sean Farrar, 21, of North Carolina, remembers the speech George Bush

gave here in January. "It was his last public address [as president]," Mr. Farrar says, sounding almost wistful.

Mr. Bush, the old soldier who fought and cheated death in airborne combat in World War II, courted and celebrated the armed services throughout his presidency. The allies' battlefield rout of Iraq in the Gulf war remains one of his most visible accomplishments.

Mr. Clinton assumes the presidency in the post-Cold War era that follows Mr. Reagan and Mr. Bush, when pressure to scale back military size and commitments is high and the work of closing bases here and abroad is already underway.

"Senior military, at least, understand that no matter who was elected we were going to have further cuts," Col. Summers says.

But the early signs were not encouraging. During the inauguration, military officers complained they were shut out of events, shorted on inaugural ball tickets and downgraded in favor of celebrities.

Once the parties gave way to real policy, Mr. Clinton further irked soldiers by proposing to cut federal workers' yearly cost-of-living raises, including those for military personnel.

The president also floated a repeal of the ban on open homosexuals at a time when the armed services already were chafing over dictates on the integration of women into military life.

"It is simply that the military is tired of being used as a social lab," Mr. Koehl says.

And the first international crisis to confront the new president was the Bosnia quagmire, which many fear could become another Vietnam.

But again, the call on Bosnia is the president's to make, whether or not his advice comes from anybody in a uniform.

Col. Summers believes Mr. Clinton will give the military more of his time and attention then he previously has done. "He understands that we live in a very dangerous world, and that the military is necessary and that he needs the military to execute his foreign policy," he says.

Soldiers, for their part, will do what they are told. Military mutiny is not an option.

"There is enough careerism in the officer corps for Clinton to find people who will implement his policies," Mr. Koehl says, "if only to mitigate some of the damage."

Backtalk—at least the kind heard aboard the Roosevelt—is also out.

"You can print this in your newspaper," says one of two West Point cadets dressed in combat fatigues and sitting in the cab of a canvas-covered truck. "They're probably going to stick all of us into Eisenhower [assembly] Hall and tell us not to boo the president."

The cadet is reminded by a visitor that heckling the president is a no-no under the Uniform Code of Military Justice.

"But we're cadets!" he replies, grinning.

TRIBUTE TO BOB MEDINA

(Mr. HUNTER asked and was given permission to address the House for 1 minute.)

Mr. HUNTER. Madam Speaker, I just wanted to say that there was one other thing that I came over for, and that was to simply say a good word about my great and loyal friend who is one of my staff members, Bob Medina, who is retiring, this last week.

I just wanted to say that he was a great member of the U.S. Navy for 20 years, served me very faithfully for 13 years.

He is going to retire, and perhaps take up residence in his hometown in the Philippines.

Madam Speaker, I just wanted to wish him the very best on this day, and especially a day and a time when we are really appreciating again, I think, our military people, and this gentleman, Bob Medina, has worn his uniform very proudly, and he served this country very ably in his work in my offices in the U.S. Congress.

Mr. DORNAN. If the gentleman will yield, bon voyage, good luck, Bob.

A TRIBUTE TO OUR MEN AND WOMEN IN UNIFORM

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute.)

Mr. FALEOMAVAEGA. Madam Speaker, I would just like to certainly pay a compliment to the gentleman from California [Mr. DORNAN] for bringing to the attention of the Members as we give special attention to the Memorial Day holiday period, but more importantly is the fact that we should remember especially the tremendous contributions that our men and women in the armed services have provided for the defense of our country.

I want to thank the gentleman from California [Mr. DORNAN] for bringing that into remembrance, and I hope certainly that our country will give that special remembrance to our men and women in uniform, and more especially also a special tribute to our military wives, who have also taken the brunt of tremendous difficulties and tribulations in the absence of their husbands while they are out in foreign countries defending our country.

I just wanted to say that, Madam Speaker, for the RECORD, and to thank the gentleman.

Mr. HUNTER. If the gentleman would yield just briefly, I want to say in reply that on this side of the aisle we have had a very contentious debate tonight, and I want to join my friend in echoing that thanks and tribute to all of our military people, and particularly to him for his service to the U.S. military and to our causes.

I appreciate his words.

Mr. FALEOMAVAEGA. I thank the gentleman from California.

I think that there is one thing that we find in commonality, and that is that both as Vietnam veterans, we certainly do have a serious appreciation of the contributions our men and women have provided for our country.

I thank the gentleman for his comments.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. SOLOMON, for 60 minutes each day, on July 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, and 30.

Mrs. MORELLA, for 60 minutes, on June 9.

Mr. FISH, for 5 minutes, today.

(The following Members (at the request of Mr. HINCHEY) to revise and extend their remarks and include extraneous material:)

Mr. BACCHUS of Florida, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes each day, on June 6, 10, and 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. LEWIS of California.
Mr. GOODLING.
Mr. CLINGER in two instances.
Mr. HASTERT in two instances.
Mr. GILLMOR in two instances.
Mr. CASTLE.
Mr. KING in two instances.
Mr. LEVY.
Mrs. JOHNSON of Connecticut.
Mr. BILIRAKIS.
Mr. RAMSTAD.
Ms. SNOWE.
Mr. GALLO.
Mr. SMITH of New Jersey.
Mr. MCCOLLUM.
Mr. BEREUTER.
Mr. THOMAS of California in two instances.
Mr. LIGHTFOOT.
Mr. FRANKS of New Jersey.
Mrs. VUCANOVICH.
Mr. HORN.
Mr. EMERSON in three instances.
Mrs. BENTLEY.
Mr. COX.

(The following Members (at the request of Mr. HINCHEY) and to include extraneous matter:)

Mr. SKELTON, in two instances.
Ms. NORTON.
Mr. BERMAN.
Mr. GEJDENSON.
Mr. STOKES.
Mr. SWETT, in two instances.
Mr. KOPETSKI.
Mr. KREIDLER.

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Mr. ENGEL.
Mr. MARKEY.
Mr. HAMILTON.
Mrs. KENNELLY.
Mr. MEEHAN, in two instances.
Mrs. MEEK.
Mr. PAYNE of New Jersey.
Mr. HOYER.
Mr. SABO.
Mr. BARCIA, in four instances.
Mr. UNDERWOOD.
Mr. VENTO.
Mr. TORRES.
Mr. MURTHA.
Mr. COSTELLO.
Mr. STARK.
Mr. POMEROY.
Mr. KILDEE, in two instances.
Mr. FALEOMAVAEGA

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1723 An act to authorize the establishment of a program under which employees of the Central Intelligence Agency may be offered separation pay to separate from service voluntarily to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function or other similar action, and for other purposes.

ADJOURNMENT

Mr. FALEOMAVAEGA. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Ms. MCKINNEY). Pursuant to the provisions of House Concurrent Resolution 105, 103d Congress, the House stands adjourned until noon on Tuesday, June 8, 1993.

Thereupon (at 10 o'clock and 20 minutes p.m.), pursuant to House Concurrent Resolution 105, the House adjourned until Tuesday, June 8, 1993, at 12 noon.

[Correction to the Congressional Record of Wednesday, May 26, 1993]

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 775. An act to modify the requirements applicable to locatable minerals on public lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Natural Resources.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1303. A letter from the Acting Secretary of the Army, transmitting notification that certain major defense acquisition programs have breached the unit cost by more than 15 and 25 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

1304. A letter from the Acting Secretary of the Navy, transmitting notification that certain major defense acquisition programs have breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

1305. A letter from the Director, Defense Research and Engineering, Department of Defense, transmitting a report on research, development, test and evaluation activities conducted under the Biological Defense Research Program during fiscal year 1992, pursuant to Public Law 101-510, section 241(a) (104 Stat. 1517); to the Committee on Armed Services.

1306. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department intends to offer for lease a naval vessel to the Government of Morocco, pursuant to 10 U.S.C. 7307(B)(2); to the Committee on Armed Services.

1307. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the annual report on the subject of retail fees and services of depository institutions, pursuant to Public Law 101-73, section 1002(b) (103 Stat. 508); to the Committee on Banking, Finance and Urban Affairs.

1308. A letter from the Assistant Vice President of Governmental Affairs, National Railroad Passenger Corporation, transmitting the 1993 criteria performance review of Amtrak's routes, pursuant to 45 U.S.C. 564(c)(4)(C); to the Committee on Energy and Commerce.

1309. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a copy of the Deputy Secretary's determination and justification that it is in the national interest to grant assistance to Senegal, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

1310. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notice of proposed lease to Norway for defense articles (Transmittal No. 5-93), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

1311. A letter from the Acting Director, U.S. Arms Control and Disarmament Agency, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal years 1994 and 1995; to the Committee on Foreign Affairs.

1312. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from passage of Public Law 103-31, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

1313. A letter from the Chairman, Interstate Commerce Commission, transmitting the semiannual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, Section 5(b), (102 Stat. 2526); to the Committee on Government Operations.

1314. A letter from the Acting Director, U.S. Information Agency, transmitting the semiannual report of the Inspector General covering the period October 1, 1992, through March 31, 1993, pursuant to Public Law 99-399, Section 412(a); to the Committee on Government Operations.

1315. A letter from the Portland District, Corps of Engineers, Department of the Army, transmitting the fiscal year 1992 annual report of the Chief of Engineers on Civil Works Activities, Portland, OR, District extract; to the Committee on Public Works and Transportation.

1316. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting Presidential determination (93-21) that the Government of Morocco is cooperating with the United Nations in implementing the settlement plan for self-determination of the people of the Western Sahara, pursuant to Public Law 102-319, section 599G; jointly, to the Committees on Appropriations and Foreign Affairs.

1317. A letter from the Acting Administrator, General Services Administration, transmitting notification of the determination that it is in the public interest to make a proposed contract award to Howard University without obtaining full and open competition, pursuant to 41 U.S.C. 253(c)(7); jointly to the Committees on Public Works and Transportation and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. NATCHER: Committee on Appropriations. Report on the Subdivision of Budget Totals for Fiscal Year 1994 (Rept. 103-113). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1701. A bill to amend title XVI of the Public Health Service Act (the Safe Drinking Water Act) to establish State revolving funds to provide for drinking water treatment facilities, and for other purposes; with an amendment (Rept. 103-114). Referred to the Committee of Whole House on the State of the Union.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 1865. A bill to direct the Administrator of the Environmental Protection Agency to make grants to States for the purposes of financing the construction, rehabilitation, and improvement of water supply systems, and for other purposes; with an amendment (Rept. 103-115). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; with an amendment (Rept. 103-116, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. OBEY:

H.R. 2295. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

By Mr. BILIRAKIS (for himself, Mr. LIPINSKI, Mr. BOEHNER, and Mr. LEWIS of Florida):

H.R. 2296. A bill to amend the Solid Waste Disposal Act to exempt pesticide rinse water degradation systems from subtitle C permit requirements; to the Committee on Energy and Commerce.

By Mr. BOUCHER (for himself, Mr. COOPER, and Mr. ROGERS):

H.R. 2297. A bill to remove certain restrictions applicable to the Cumberland Gap National Historical Park, and for other purposes; to the Committee on Natural Resources.

By Mr. CASTLE:

H.R. 2298. A bill to suspend until January 1, 1995, the duty on Pigment Red 254; to the Committee on Ways and Means.

H.R. 2299. A bill to suspend until January 1, 1995, the duty on Pigment Blue 60; to the Committee on Ways and Means.

By Mr. FORD of Michigan:

H.R. 2300. A bill to provide assistance to employees who are subject to a plant closing or mass layoff because their work is transferred to a foreign country that has low wages or unhealthy working conditions and to amend the Worker Adjustment and Retraining Notification Act to expand the coverage and strengthen the notification and enforcement provisions under that act; to the Committee on Education and Labor.

By Mr. CASTLE:

H.R. 2301. A bill to suspend until January 1, 1997, the duty on PCMX; to the Committee on Ways and Means.

H.R. 2302. A bill to suspend until January 1, 1995, the previously existing suspension of duty on o-Benzyl-p-chlorophenol; to the Committee on Ways and Means.

H.R. 2303. A bill relating to the tariff treatment of gum rosin and wood rosin; to the Committee on Ways and Means.

H.R. 2304. A bill to extend until January 1, 1996, the existing suspension of duty on Quizalofop-ethyl; to the Committee on Ways and Means.

By Mr. COLEMAN:

H.R. 2305. A bill to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. CONDIT:

H.R. 2306. A bill to provide for Federal incarceration of undocumented criminal aliens and to provide for the transfer of closed military bases to the Justice Department for use as prison facilities for the incarceration of criminal aliens; jointly, to the Committees on the Judiciary and Armed Services.

By Mr. DELAY (for himself, Mr. ARCHER, Mr. ARMEY, Mr. BAKER of Louisiana, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BARTON of Texas, Mr. BATEMAN, Mr. BEREUTER, Mr. BOEHNER, Mr. COBLE, Mr. COMBEST, Mr. COX, Mr. CRANE, Mr. DOOLITTLE, Mr. DORNAN, Mr. DUNCAN, Mr. EMERSON, Mr. FAWELL, Mr. GALLEGLY, Mr. GILCHREST, Mr. GINGRICH, Mr. GOODLATTE, Mr. GOSS, Mr. GUNDERSON, Mr. HANCOCK, Mr. HANSEN, Mr. HEFLEY, Mr. HERGER, Mr. HOEKSTRA, Mr. INGLIS, Mr. INHOFE, Mr. SAM JOHNSON of Texas, Mr. KOLBE, Mr. KYL, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. MCCOLLUM, Mr. MCMILLAN, Mr. MILLER of Florida, Mr. MOORHEAD, Mr. OXLEY, Mr. PACKARD, Mr. PORTER, Ms. PRYCE of Ohio, Mr. RAMSTAD, Mr. ROHRABACHER, Mr. SCHAEFER, Mr. SHAW, Mr. SMITH of Texas, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. THOMAS of California, Mr. THOMAS of Wyoming, Mrs. VUCANOVICH, and Mr. WALKER):

H.R. 2307. A bill entitled, "Workers' Political Rights Act"; to the Committee on House Administration.

By Mrs. COLLINS of Illinois:

H.R. 2308. A bill to assist in the development of microenterprises and microenterprise lending; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

By Mr. FRANK of Massachusetts (for himself, Mr. MOAKLEY, Mr. BLUTE, Mr. OLVER, Mr. TORKILDSEN, Mr. KENNEDY, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. STUDDS, and Mr. MARKEY):

H.R. 2309. A bill to amend the Federal Water Pollution Control Act relating to reauthorization of the State water pollution control revolving fund program; to the Committee on Public Works and Transportation.

By Mr. FRANKS of New Jersey (for himself, Ms. SHEPHERD, Mr. GALLO, Mr. MENENDEZ, Mr. SAXTON, Mr. JEFFERSON, and Mr. MICA):

H.R. 2310. A bill to amend the Water Resources Development Act of 1986 to require the Secretary of the Army to consider the loss of life which may be associated with flooding and coastal storm events in the formulation and evaluation of flood control projects to be carried out by the Secretary; to the Committee on Public Works and Transportation.

By Mr. GILCHREST:

H.R. 2311. A bill to amend the Federal Election Campaign Act of 1971 to prohibit nonparty multicandidate political committee contributions in elections for Federal office; to the Committee on House Administration.

By Mr. GOSS:

H.R. 2312. A bill to amend the Federal Election Campaign Act of 1971 to reform House of Representatives campaign finance laws, and for other purposes; jointly, to the Committees on House Administration, Post Office and Civil Service, Energy and Commerce, the Judiciary, and Ways and Means.

By Mr. HASTERT:

H.R. 2313. A bill to suspend until January 1, 1995, the duty on anthraquinone; to the Committee on Ways and Means.

H.R. 2314. A bill to suspend temporarily the duty on 3,4,4'-trichlorocarbanilide; to the Committee on Ways and Means.

By Mr. HYDE (for himself, Mr. SMITH of New Jersey, Mr. HUNTER, Mr. GILMAN, Mr. FISH, Mr. WILSON, and Mr. GINGRICH):

H.R. 2315. A bill terminating the United States arms embargo of the Government of Bosnia-Hercegovina; to the Committee on Foreign Affairs.

By Mrs. JOHNSON of Connecticut:

H.R. 2316. A bill to amend title 18, United States Code, to prohibit the mailing of certain mail matter; to the Committee on the Judiciary.

H.R. 2317. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance policies, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MARKEY (for himself, Mr. MOAKLEY, Mr. KENNEDY, Mr. FRANK of Massachusetts, Mr. NEAL of Massachusetts, Mr. STUDDS, Mr. OLVER, Mr. MEEHAN, Mr. TORKILDSEN, Mr. BLUTE, and Mr. MONTGOMERY):

H.R. 2318. A bill to redesignate the Federal building located at 380 Trapelo Road in Waltham, MA, as the "Frederick C. Murphy Federal Center"; to the Committee on Public Works and Transportation.

By Mr. MCKEON (for himself, Mr. CALVERT, Mr. DEUTSCH, Mr. GALLEGLY, Mr. GOSS, Ms. HARMAN, Mr. HOBSON, Mrs. JOHNSON of Connecticut, Mr. KINGSTON, Mr. MOORHEAD, Mr. QUINN, Mr. RAMSTAD, Mr. WALSH, Mr. ZIMMER, Mr. BROWN of California, Mr. THOMAS of California, and Mr. BEILENSON):

H.R. 2319. A bill to amend the Solid Waste Disposal Act to require each department, agency, and instrumentality of the executive branch of the Federal Government to use recycled paper; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself, Mr. MILLER of California, Mr. DELLUMS, Mr. FAZIO, Mr. EDWARDS of California, Mr. STARK, Mr. LANTOS, Ms. ESHOO, Ms. WOOLSEY, and Mr. HAMBURG):

H.R. 2320. A bill to amend the Federal Water Pollution Control Act to provide for implementation of a comprehensive plan for the San Francisco Bay-Delta Estuary, and for other purposes; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. SANGMEISTER:

H.R. 2321. A bill to provide comprehensive crime control measures; to the Committee on the Judiciary.

By Ms. SNOWE:

H.R. 2322. A bill to amend the Harmonized Tariff Schedule of the United States to clarify that certain footwear assembled in CBI beneficiary countries is excluded from duty-free treatment; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 2323. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Natural Resources.

By Mr. SPRATT:

H.R. 2324. A bill to suspend for a 3-year period the duty on omega-dodecalactam; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 2325. A bill to provide for demonstration projects to test whether enrollment in the supplemental security income program can be significantly increased by offering nonprofit organizations financial incentives to engage in outreach; to the Committee on Ways and Means.

By Mr. SYNAR (for himself, Mr. BOUCHER, Mr. KOPETSKI, Mr. HYDE, Mr. BACCHUS of Florida, Mr. KANJORSKI, Mr. POMEROY, Mr. MCCURDY, Mr. BURTON of Indiana, Mr. ROTH, Mr. SCHIFF, Mr. RAMSTAD, Mr. SANGMEISTER, Mr. GOODLATTE, Mr. HAYES of Louisiana, Mr. ROEMER, and Mr. FRANK of Massachusetts):

H.R. 2326. A bill to amend title 11 of the United States Code with respect to cases under chapter 13, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMAS of Wyoming (for himself, Mr. KIM, Mr. GORDON, Mr. HYDE, Mr. BOEHNER, Mr. EWING, Mr. WALSH, Mr. HANCOCK, Mr. LEVY, Mr. SCHIFF, Mr. TAYLOR of North Carolina, and Mr. EVERETT):

H.R. 2327. A bill to clarify the application of Federal preemption of State and local laws, to preserve State and local legislative rights and prerogatives, and for other purposes; to the Committee on Government Operations.

By Mr. VENTO (for himself, Mr. MILLER of California, and Mr. WILLIAMS):

H.R. 2328. A bill to establish a Public Lands Corps, and for other purposes; jointly, to the Committees on Natural Resources, Agriculture, and Education and Labor.

By Mr. DUNCAN:

H.J. Res. 205. Joint resolution designating the week beginning October 31, 1993, as "National Health Information Management Week"; to the Committee on Post Office and Civil Service.

By Ms. NORTON (for herself and Mr. RAVENEL):

H.J. Res. 206. Joint resolution to designate the month of October 1993 and October 1994 as "National Down Syndrome Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. ORTON:

H.J. Res. 207. Joint resolution to provide for the issuance of a commemorative postage stamp in honor of Dr. Martha Hughes Cannon; to the Committee on Post Office and Civil Service.

By Mr. GEPHARDT:

H. Con. Res. 105. Concurrent resolution providing for an adjournment of the House and Senate; considered and agreed to.

By Mr. ACKERMAN (for himself, Mr. GILMAN, Mr. PORTER, and Mr. LANTOS):

H. Con. Res. 106. Concurrent resolution urging the President to raise, at the highest levels of the Government of the People's Republic of China, the issue of Chinese population transfer into Tibet in an effort to bring about an immediate end to that Government's policy on this issue; to the Committee on Foreign Affairs.

By Mr. BROWN of Ohio (for himself, Mr. DEFAZIO, Mrs. BENTLEY, Mr. LIPINSKI, Mr. VALENTINE, Mr. ANDREWS of Maine, Mr. POMEROY, Mr. HINCHEY, Mrs. THURMAN, and Mr. TUCKER):

H. Con. Res. 107. Concurrent resolution expressing the sense of Congress that U.S. truck safety standards not be compromised incident to the implementation of the North American Free Trade Agreement; to the Committee on Public Works and Transportation.

By Mr. GOODLING:

H. Con. Res. 108. Concurrent resolution expressing the sense of the Congress regarding alcohol use by the Nation's youth; jointly, to the Committees on the Judiciary and the District of Columbia.

By Mr. MICHEL:

H. Res. 187. Resolution designating certain minority membership on certain standing committees of the House; considered and agreed to.

By Mr. LANTOS (for himself, Mr. GINGRICH, Mr. HOYER, Mr. GILMAN, Ms. PELOSI, Mr. PORTER, Mrs. MORELLA, Mr. SMITH of New Jersey, Mr. LEWIS of Georgia, and Mr. TORRES):

H. Res. 188. Resolution to express the sense of the House of Representatives that the Olympics in the year 2000 should not be held in Beijing or elsewhere in the People's Republic of China; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

165. By the SPEAKER: Memorial of the Senate of the State of Hawaii, relative to Hawaiian lands and Federal trust obligations; to the Committee on Natural Resources.

166. Also, memorial of the Senate of the State of Louisiana, relative to the energy tax; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ENGEL introduced a bill (H.R. 2329) for the relief of Inna Hecker Grade; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. EVANS.

H.R. 5: Mr. MENENDEZ.

H.R. 8: Mr. WHEAT, Ms. BYRNE, Mr. FRANK of Massachusetts, Mr. POMEROY, Mr. KLUG, Mr. HUGHES, Ms. WOOLSEY, Mr. TOWNS, Mr. JOHNSON of South Dakota, Ms. MALONEY, Mr. BECERRA, Mr. ACKERMAN, Ms. DANNER, Mr. CLAY, Mr. KLINK, Mrs. UNSOELD, Mr. GUTIERREZ, Mr. SCOTT, Mr. LEHMAN, Mr. MARTINEZ, Mr. MAZZOLI, Mr. GLICKMAN, Mr. PAYNE of New Jersey, Mr. FOGLIETTA, Mr. GENE GREEN, Mrs. MEEK, Mr. HINCHEY, Mr. PETERSON of Minnesota, Mr. BLACKWELL, Mr. RUSH, Mr. ROMERO-BARCELÓ, Mr. PASTOR, Mr. JEFFERSON, Mr. FROST, Ms. MCKINNEY, Mr. EMERSON, Mr. KOPETSKI, Mr. HASTINGS, Mr. STRICKLAND, and Mr. FISH.

H.R. 15: Mr. COSTELLO.

H.R. 65: Mr. ENGEL, Mr. STUPAK, Mr. JEFFERSON, and Mr. RAHALL.

H.R. 81: Mr. ABERCROMBIE.

H.R. 127: Mr. BARCIA and Mr. KLINK.

H.R. 140: Mr. LEWIS of California, Mr. SENSENBRENNER, Mr. KINGSTON, Mr. BLUTE, Mr. BARTLETT, Ms. PRYCE of Ohio, Mr. DARDEN, and Mr. BISHOP.

H.R. 173: Mr. HASTERT.

H.R. 214: Ms. ROS-LEHTINEN and Mr. HAMILTON.

H.R. 290: Mr. ENGEL.

H.R. 303: Mr. ENGEL and Mr. STUPAK.

H.R. 306: Mr. ALLARD.

H.R. 325: Ms. VELAZQUEZ, Mr. MCKEON, Mr. ENGEL, and Mr. MCCOLLUM.

H.R. 326: Mr. UPTON, Mr. TORRICELLI, Mr. SAXTON, Mr. STRICKLAND, Mr. QUINN, Mr. BACCHUS of Florida, and Mr. WHEAT.

H.R. 349: Mrs. KENNELLY, Mr. BONILLA, Ms. ENGLISH of Arizona, Mr. CALVERT, Mr. HUFFINGTON, Mr. HORN, Mr. PORTMAN, Mr. SKEEN, Mr. LEVY, Mr. KING, Mr. SMITH of Michigan, Mr. KLEIN, and Ms. LAMBERT.

H.R. 369: Mr. GILLMOR.

H.R. 466: Mr. LIPINSKI, Mr. EDWARDS of Texas, Mr. HUGHES, Mr. HOCHBRUECKNER, and Mrs. MEEK.

H.R. 477: Mr. PETERSON of Minnesota.

H.R. 515: Mr. SARPALIUS, Mr. FINGERHUT, Mr. SMITH of New Jersey, Mr. BOEHNER, Mrs. LLOYD, Mr. GOSS, Mr. GILLMOR, Mr. APPLEGATE, Mrs. JOHNSON of Connecticut, Mr. HALL of Ohio, Mrs. MEYERS of Kansas, and Mr. KIM.

H.R. 562: Mr. TAYLOR of North Carolina.

H.R. 567: Mrs. MEYERS of Kansas.

H.R. 591: Mr. SHAYS and Mr. SKAGGS.

H.R. 633: Mrs. MEYERS of Kansas.

H.R. 703: Mr. HILLIARD Mr. INSLEE, Ms. FOWLER, and Mr. SANTORUM.

H.R. 710: Mr. FILNER, Ms. SLAUGHTER, Mr. FLAKE, Mr. SCHUMER, Mr. BLACKWELL, and Mr. ORTON.

H.R. 846: Mr. LEWIS of California, Mr. OXLEY, Mr. LEHMAN, Mr. VOLKMER, Mr. HOLDEN, Mr. GOODLING, Ms. ENGLISH of Arizona, Mr. TALENT, and Mr. SANTORUM.

H.R. 895: Mr. KLUG and Mr. HASTERT.

H.R. 896: Mr. KLUG and Mr. HASTERT.

H.R. 911: Mr. SKEEN.

H.R. 922: Mr. INSLEE.

H.R. 930: Mr. RAMSTAD, Mr. GORDON, and Mrs. MEYERS of Kansas.

H.R. 967: Ms. FOWLER, Mr. BATEMAN, Mr. CALVERT, and Mr. GILMAN.

H.R. 968: Mr. GILMAN.

H.R. 977: Mr. RICHARDSON, Mr. UPTON, and Mr. EMERSON.

H.R. 1019: Mr. CONYERS, Mr. FIELDS of Louisiana, Mr. FOGLIETTA, and Mr. HASTINGS.

H.R. 1020: Mr. CONYERS, Mr. FIELDS of Louisiana, Mr. FOGLIETTA, Mr. HASTINGS, and Mr. WYNN.

H.R. 1021: Mr. CONYERS, Mr. FIELDS of Louisiana, Mr. FOGLIETTA, Mr. HASTINGS, and Mr. WYNN.

H.R. 1022: Mr. CONYERS, Mr. FIELDS of Louisiana, Mr. FOGLIETTA, Mr. HASTINGS, and Mr. WYNN.

H.R. 1036: Mr. WHEAT.

H.R. 1076: Miss COLLINS of Michigan.

H.R. 1181: Mrs. VUCANOVICH.

H.R. 1277: Mr. BONILLA and Mr. GILLMOR.

H.R. 1280: Mr. STARK, Mr. BARLOW, Mr. WILSON, Mr. KENNEDY, Mr. LAFALCE, Mr. VENTO, Mr. DIXON, Mr. EVANS, Ms. VELÁZQUEZ, Mr. YATES, Mrs. SCHROEDER, and Mr. HOCHBRUECKNER.

H.R. 1312: Mr. PETERSON of Minnesota.

H.R. 1314: Mr. SCHIFF and Mr. FROST.

H.R. 1322: Mr. MCINNIS and Mr. MILLER of Florida.

H.R. 1323: Mr. MINETA.

H.R. 1330: Mr. TALENT, Mr. COLLINS of Georgia, Mr. LINDER, Mr. CRANE, Mr. HOBSON, Mrs. BENTLEY, Mr. ARMEY, Mr. MCCOLLUM, Mr. DOOLITTLE, Mr. MCINNIS, Mr. BISHOP, and Mr. OXLEY.

H.R. 1332: Mr. ENGEL, Mr. NUSSLE, Mr. PETERSON of Florida, and Mr. STEARNS.

H.R. 1394: Miss COLLINS of Michigan.

H.R. 1442: Mr. MCCLOSKEY, Mr. HALL of Ohio, Mr. TOWNS, and Mr. KING.

H.R. 1444: Ms. THURMAN and Mr. HAYES.

H.R. 1447: Mr. HAYES.

H.R. 1455: Mr. SHAW.

H.R. 1457: Miss COLLINS of Michigan, Mrs. CLAYTON, Mr. CLAY, Mr. JEFFERSON, Mr. VENTO, Mr. RANGEL, Mr. WATT, Mr. FOGLIETTA, Mr. TUCKER, Ms. SLAUGHTER, Ms. MCKINNEY, Ms. ROYBAL-ALLARD, Mr. SERRANO, Mr. FIELDS of Louisiana, Mr. WYNN, Mrs. COLLINS of Illinois, Mr. STARK, Mr. SANDERS, and Mr. EVANS.

H.R. 1504: Ms. LONG, Ms. LOWEY, Mr. QUINN, Mr. HASTERT, and Mr. MORAN.

H.R. 1505: Mr. BALLENGER, Mr. KLUG, Mr. TORKILDSEN, and Mr. GOODLATTE.

H.R. 1508: Mr. SMITH of New Jersey and Miss COLLINS of Michigan.

H.R. 1517: Mr. TRAFICANT, Mr. HOYER, and Mr. FRANK of Massachusetts.

H.R. 1520: Mrs. BENTLEY and Mr. CARDIN.

H.R. 1528: Mr. MCHUGH, Mr. GINGRICH, Mr. ZIMMER, Mr. WALSH, Mr. PARKER, Mr. ZELIFF, Mr. EMERSON, Mr. SHAYS, Mr. MACHTLEY, Mrs. BENTLEY, Mr. FISH, Mrs. JOHNSON of Connecticut, and Mr. BONILLA.

H.R. 1529: Mr. BEREUTER, Mr. PETRI, Mr. COBLE, and Mr. UPTON.

H.R. 1538: Mr. HILLIARD.

H.R. 1551: Mr. CALLAHAN, Mr. BAKER of Louisiana, Mr. PACKARD, Mr. LEWIS of Georgia, and Mr. MCDERMOTT.

H.R. 1566: Mr. WILSON and Mr. TEJEDA.

H.R. 1595: Mr. BOEHNER.

H.R. 1625: Mr. GALLO, Mr. MACHTLEY, Mrs. ROUKEMA, and Mr. CLINGER.

H.R. 1640: Mr. BERMAN.

H.R. 1645: Mr. PARKER, Ms. KAPTUR, and Mr. SHAYS.

H.R. 1700: Ms. EDDIE BERNICE JOHNSON and Mr. JEFFERSON.

H.R. 1722: Mr. WHEAT, Mrs. SCHROEDER, Mrs. MINK, Ms. SLAUGHTER, Mr. TRAFICANT, Mr. OWENS, Mr. ROMERO-BARCELO, Mr. BERMAN, Mr. OBERSTAR, Mr. WALSH, Mr. MILLER of California, and Mr. SMITH of New Jersey.

H.R. 1769: Mr. PAYNE of Virginia.

H.R. 1795: Mr. GINGRICH.

H.R. 1814: Ms. EDDIE BERNICE JOHNSON, Mr. JEFFERSON, and Mr. GINGRICH.

H.R. 1824: Mr. BEILENSON, Mr. DELLUMS, and Mr. TORRES.

H.R. 1830: Mr. STENHOLM and Mr. LEVY.

H.R. 1881: Mr. SCOTT, Mr. LAFALCE, and Mr. FROST.

H.R. 1890: Mr. NEAL of North Carolina and Mr. CLAY.

H.R. 1898: Mr. MCKEON, Mr. HYDE, and Mr. SHUSTER.

H.R. 1900: Mr. INGLIS, Mr. DARDEN, Mr. DURBIN, Mr. SCOTT, Mr. BEILENSON, Mr. YATES, Mr. FISH and Mr. CLYBURN.

H.R. 1908: Mr. NADLER.

H.R. 1915: Mr. MANTON, Mr. ACKERMAN, Mr. GENE GREEN, Ms. ESHOO, Mr. HOCHBRUECKNER, Ms. FURSE, and Mr. STUPAK.

H.R. 1916: Mr. WELDON, Ms. FURSE, Mr. GENE GREEN, Mr. HASTINGS, Mr. DEFAZIO, Mr. BATEMAN, Mr. DEUTSCH, Mr. GEJDENSON, Mr. HUGHES, Mr. BACCHUS of Florida, Mr. JOHNSTON of Florida, and Mr. TOWNS.

H.R. 1961: Mr. FOGLIETTA, Mr. FROST, Mr. KOPETSKI, and Mr. JEFFERSON.

H.R. 1991: Mr. LIPINSKI.

H.R. 2016: Mr. PETRI.

H.R. 2019: Mr. CARR.

H.R. 2076: Mr. DEUTSCH, Mr. MILLER of California, and Ms. WOOLSEY.

H.R. 2088: Mr. HYDE, Mr. LIPINSKI, Mr. NEAL of North Carolina, and Mr. SENSENBRENNER.

H.R. 2115: Mr. WILSON and Mr. SANGMEISTER.

H.R. 2127: Mr. DORNAN and Mr. GINGRICH.

H.J. Res. 22: Mr. BUYER.

H.J. Res. 86: Mr. VOLKMER, Ms. NORTON, Mr. CRAMER, Mr. BEVILL, Mr. BLILEY, Mr. BILIRAKIS, and Mr. BLUTE.

H.J. Res. 111: Mr. PARKER, Ms. PRYCE of Ohio, Mr. WELDON, Mr. MCDADE, Mr. BACCHUS of Florida, Mr. BARLOW, Mrs. MEYERS of Kansas, Mr. SHAYS, Mrs. KENNELLY, Mr. SKEEN, and Mr. COYNE.

H.J. Res. 124: Mr. CRAMER.

H.J. Res. 142: Mr. LANCASTER.

H.J. Res. 171: Mr. BARTLETT, Mr. ARMEY, and Mr. BAKER of California.

H.J. Res. 187: Mr. HOCHBRUECKNER and Mr. GREENWOOD.

H.J. Res. 193: Mr. BURTON of Indiana, Mr. PAYNE of Virginia, Mr. STUDDS, Mr. HASTERT, and Mr. YOUNG of Alaska.

H.J. Res. 198: Mr. HOEKSTRA, Mr. KASICH, Mr. ROTH, Mr. FALEOMAVAEGA, Mr. KLUG, and Mr. CRAMER.

H.J. Res. 204: Mr. MINETA, Mr. SLATTERY, Mr. LIVINGSTON, Mr. SANDERS, Mr. SANGMEISTER, Mr. MCDADE, Mr. MCHUGH, Mr. BILIRAKIS, Mr. STUMP, Mr. ACKERMAN, and Mr. RAMSTAD.

H. Con. Res. 20: Mr. VENTO, Ms. ROYBAL-ALLARD, Mr. RIDGE, Ms. MOLINARI, Mr. MARTINEZ, Mr. CASTLE, Mr. ENGEL, and Ms. DELAURO.

H. Con. Res. 42: Mr. SCOTT and Mr. JEFFERSON.

H. Con. Res. 70: Miss COLLINS of Michigan.

H. Con. Res. 74: Mr. KYL.

H. Con. Res. 76: Mr. MILLER of Florida, Mr. LANCASTER, Ms. SLAUGHTER, Mr. LAZIO, and Mr. ZIMMER.

H. Con. Res. 99: Mr. KENNEDY, Mr. RANGEL, and Mr. FROST.

H. Con. Res. 100: Mr. BOEHLERT.

H. Con. Res. 104: Mr. GILMAN.

H. Res. 135: Mr. FISH, Mr. DUNCAN, and Mr. QUILLEN.

H. Res. 139: Mr. TORKILDSEN.

H. Res. 148: Mr. PAXON.

H. Res. 151: Mr. BUNNING, Mr. GOODLATTE, Mr. BALLENGER, Mr. INGLIS, and Mr. GALLEGLY.

H. Res. 165: Mr. MCMILLAN, Mrs. VUCANOVICH, Mr. FROST, Mr. THOMAS of California, Mr. NEAL of North Carolina, Ms. KAPTUR, Mr. DARDEN, Mr. GILLMOR, and Mr. TORRES.

EXTENSIONS OF REMARKS

JAMES McKAY RORTY OF THE FIGHTING 69TH—AN AMERICAN PATRIOT

HON. PETER T. KING
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. KING. Mr. Speaker, one cannot read military history without being deeply impressed, even inspired, by the sacrifice and courage of men and women whose heroic acts and steadfast courage go far beyond what reason would suggest is even the most enlightened self-interest. There is a certain something that gives a special cohesion to a military unit in combat, something that goes beyond the defense of hearth and home, beyond what even individual courage might accomplish alone. That special quality flows from the brotherhood of arms. Some of the most heroic of acts, "above and beyond the call of duty," are the acts of men who would rather lay down their own lives than to let down their buddies. The brotherhood of arms exists not only in the present tense among members of the same unit, but it exists over time among those who share the same military traditions. The traditions of the corps or of the regiment can provide a sense of the spiritual presence of members of former generations that the soldiers, sailors, airmen, marines and coast guardsmen of today can feel that they are part of an ongoing tradition which is a psychological reality.

When I march with 1st Sgt. Barney Kelly as a member of the Veteran Corps of the 69th Regiment of New York, I can still feel that special thrill which I first felt as a private in the line of the "Fighting 69th." The green battle flag and the regimental flag with its multitude of battle streamers and 62 battle rings is a tangible link with those men of earlier generations who fought on Makin Island, in France and on the battlefields of our own civil war. The 69th Regiment New York State Militia, in response to President Lincoln's personal request, stayed beyond the expiration of their active duty time to defend the Union at that terrible Battle of Bull Run; the regiment acquitted itself well on the field that day, but among its losses were the capture of its commander, Col. Michael Corcoran and a number of his men including James McKay Rorty—who later escaped and then volunteered for combat with the Irish Brigade.

James McKay Rorty, like most members of the 69th, was an Irish nationalist, a faithful officer of the Fenian Brotherhood, and a patriotic American devoted to the Constitution and Union of the United States of America. For Rorty and his generation there was no conflict of interest between his American citizenship and his desire to see the blessings of Liberty extended to the land of his birth; it is the same as a man being able to love both his wife and his mother. The same is true of Irish America today; it is not unique to the Irish, but provides that special care for all peoples with whom we share bonds of blood and affection. It is a strength of American society that these ties exist; it is a strength of the American political system that these concerns can be expressed through the Congress, concerns enlightened by intimate knowledge. James McKay Rorty was a leading champion of Liberty for his native Ireland and the Irish as well as for the entire United States, his adopted country. A member of the 69th New York and of the Irish Brigade, he fell in battle on the July 3, 1863, very near the "Highwater mark of the Confederacy."

His body was recovered from its shallow grave on the field at Gettysburg and reinterred in New York's First Cavalry Cemetery. This Saturday, May 29, 1993, it will be my great honor to participate with Jack Conway and the Irish Brigade Association, the county Donegal Association, the 69th Regiment of New York and the Veteran Corps of the 69th Regiment in the dedication of a new memorial stone—the original having succumbed to acid rain—at the grave of James McKay Rorty. While my own service with the 69th New York is separated from Rorty's by over a century, the traditions of the regiment run so strong that I, and my fellow veterans of the 69th, truly feel that we are honoring a fellow comrade in arms who is as much a part of our brotherhood as those who were with "Wild Bill" Donovan and Father Duffy in France, or with Col. Gerry Kelley and Frank McCrorken on Makin, on Saipan and—also with Father Lynch—on Okinawa, or those who stood immediately beside us in the ranks of the "Fighting 69th".

Historian Brian Pohanka has written an excellent monograph on James McKay Rorty which is being published by the Irish Brigade Association, with the assistance of—among others—the Rorty and Blount families and the 69th Regiment veterans. Mr. Pohanka has been kind enough to prepare a condensation of his work on Rorty for me to insert in the RECORD. I therefore offer:

FROM DONEGAL TO GETTYSBURG—CAPT. JAMES McKAY RORTY

The roll call of Irish-born heroes of the American Civil War is a long and honorable one: Corcoran, Cleburne, Meagher, Sweeney, Mulligan, Smyth . . . Soldiers, orators, patriots—the names evoke a legacy of bravery and idealism that still retains the power to inspire. As the poet William Butler Yeats wrote of a later generation of Irish heroes, those of us who draw inspiration from that gallant litany "murmur name upon name . . . whenever green is worn."

On May 29, 1993, Irish American and veterans organizations, Civil War historians and uniformed re-enactment units will gather at First Calvary Cemetery, Woodside, New York, to honor a son of Erin who gave his life for his adopted country in the great and terrible battle of Gettysburg. The passage of time has obscured the memory of James McKay Rorty even as the elements eroded the marble stone that marked his grave. But the record of Rorty's words and deeds have inspired a later generation to replace his crumbling gravestone with an impressive granite monument—and by their tribute, to keep his memory green.

James McKay Rorty was born in Donegal Town on June 11, 1837, the first of ten children of Richard and Catherine Rorty. Like so many other young Irishmen, James sought a brighter future in America, emigrating to New York in the year 1857. Working as a book canvasser and dry goods salesman, despite financial reverses he managed to raise enough money to bring two of his brothers to New York. It was not until the summer of 1863 that funds were available to ensure the passage of the rest of the family to America.

Disappointed as he was in business pursuits, James Rorty found an outlet for his hopes and dreams of an independent Ireland through his association with the Fenian Brotherhood. He soon began to make a name for himself in Irish nationalist circles, both as a writer and orator; one associate described him as "gifted with a power of eloquence rarely vouschafed to so young a man." In 1859 Rorty signed on as a member of the "O'Mahony Guards," a militia unit named in honor of the Fenian leader John O'Mahony, and one of 40 independent companies comprising the Phoenix Brigade.

On April 20, 1861, a week after the Confederate bombardment and capture of Fort Sumter ignited long-simmering sectional differences and plunged the United States into Civil War, James McKay Rorty enlisted in Company G of the 69th New York Militia—a unit commanded by Colonel Michael Corcoran, one of the founders of the Fenian Brotherhood. The 69th New York was the pride of Manhattan's large Irish community, and three days after Rorty enlisted the regiment was given a thunderous send-off when they departed for the seat of war at Washington, D.C.

Private Rorty and his comrades spent several weeks wielding picks and shovels in the construction of a line of defensive fortifications on Arlington Heights before marching forth to what nearly everyone expected to be a single, deciding confrontation with the Southern forces gathered near Manassas, Virginia. In company with the other units in Colonel William Tecumseh Sherman's brigade, the 69th New York crossed the sluggish stream called Bull Run, and charged into the vortex of fire that swept the slope of Henry House Hill. For a time it seemed the North would win the day, but a combination of faulty generalship and plain bad luck found a defeated Union army in chaotic retreat back down the road to Washington. Private Rorty stood by Colonel Corcoran and the remnants of the 69th New York as they tried to stem the tide of disaster along Bull Run. Waging a last-ditch stand in a roadside farmhouse, Corcoran, Rorty, and some two dozen followers were surrounded and captured.

Three days after the battle of Bull Run, Rorty found himself incarcerated with hundreds of other Federal prisoners in a Richmond, Virginia warehouse. After two months of debilitating confinement, Rorty decided

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"the honor of the corps" required the soldiers of the 69th to mount an escape attempt. On September 18, 1861, Rorty and two comrades managed to slip out of the warehouse clad in civilian garb, and began a perilous journey northward. Traveling by night and resting during the day, the three young Irishmen successfully eluded Conferate sentries and a week after leaving Richmond gained the banks of the broad Potomac River. Fashioning two makeshift rafts, the escapees paddled out to a group of U.S. Navy gunboats and safety.

When James Rorty's parents learned of his perilous exploits, they implored their son to abandon the military service; why, they asked, should he risk his life, and the family's hopes of emigration, in a fratricidal American conflict? But James McKay Rorty was determined to go back to front, and after accepting a commission as Lieutenant of Artillery in General Thomas Francis Meagher's Irish Brigade, James penned his family a forceful and eloquent explanation of his actions.

"Let me reassure you of my firm conviction," Rorty wrote, "that the separation of this Union into North and South would not only be fatal to the progress of constitutional freedom but would put impassable barriers in the way of future immigration. It would close forever the wide portals through which the pilgrams of liberty from every European clime have sought and found it...Our only guarantee is the Constitution, our only safety is in the Union, one, and indivisible."

Returning to the defenses of Washington with the Irish Brigade, Rorty and the gunners of the 14th New York Independent Battery passed the long winter months in a regimen of drill and instruction that prepared the Army of the Potomac for a massive effort against the Confederate capital, Richmond. In mid March of 1862, Lieutenant Rorty found himself aboard a transport bound for the tip of the Virginia Peninsula, from where General George McClellan launched his ambitious, but ultimately futile campaign.

Appointed Ordnance Officer on the Staff of General Israel Richardson, the gruff, hardbitten commander of the First Division, Second Corps, Rorty passed safely through the bloody Seven Days battles. But he mourned for lost comrades like Captain Joseph O'Donaghue of the 88th New York, of whom he wrote, "Rest, great heart, rest, under the hallowed turf of a soldier's grave; a comrade grieves selfishly for your loss, but glories in your glory!"

From the Peninsula the Army of the Potomac was shifted back to Washington, then into Maryland to confront Robert E. Lee's first invasion of Northern territory. Lee was repulsed in the battle of Antietam, the bloodiest single day in American history, but many Federal—including the Irish Brigade—were decimated. Rorty's commander, General Richardson, was among the slain, and he found himself on the staff of a new division leader: the intrepid General Winfield Scott Hancock.

Hancock praised Lieutenant Rorty's "intelligence, bravery and fidelity" during the terrible and ultimately futile charge against Lee's Confederates at Fredericksburg. With rank after rank of Union blue falling in the advance on Marye's Heights, Rorty spurred his horse into the carnage, waving the men onward with his sword. The horse was shot beneath him, and the lieutenant took a bullet in the left arm. After two months convalescence, Rorty rejoined General Hancock in time to participate in the battle of Chancellorsville. It proved to be yet another Union defeat, but won Rorty a mention in dispatches for his "great gallantry," and gained him promotion to the rank of Captain.

Throughout his military service James McKay Rorty continued his affiliation with the Fenian Brotherhood, serving as Recording Secretary for the organization's army subgroup, the Potomac Circle. Thomas Clerk Luby, a leading Irish nationalist who visited the army, described Rorty as "The cleverest and most promising young Irish soldier," whom he encountered; "A nice looking young man, well mannered, well spoken, highly intelligent . . . well informed on military subjects." Another comrade remembered Rorty as "devoted heart and soul to the cause of Ireland."

In June of 1863, with the Confederate forces preparing for yet another attempt to carry the war into Maryland and Pennsylvania, Captain Rorty obtained a brief leave of absence in order to get his newly arrived parents, three brothers and four sisters settled in their Brooklyn home. After a separation of six years, it was truly an emotional reunion. The children ranged in age from 8 to 21, and the youngest of them must have had only the vaguest recollection of their soldier brother. All too soon, the dashing Captain had to bid his family goodbye, and return to the front.

Led by a new commander, General George Meade, the Army of the Potomac marched north to a decisive clash with Lee's Army of Northern Virginia near the little Pennsylvania town called Gettysburg. Rorty rode with General Hancock, now commanding officer of the elite Second Corps, and helped the charismatic General to rally the Union troops who had been worsted on the first day of fighting. But staff duties had never been to Rorty's liking, and the next day—July 2, 1863—the Captain asked Hancock to give him a more active role. The General acquiesced, and Rorty took command of the 114 men and four rifled Parrott guns comprising Battery B, 1st New York Light Artillery.

The second day of the battle of Gettysburg was a grisly stand-off. The blue and gray battle lines swept back and forth over the fields and ridges, with neither side able to gain a decisive advantage. Rorty was on hand when the "Fighting Chaplain", Father William Corby, rendered general Absolution to the assembled troops of the Irish Brigade. And Rorty's battery lost 9 men in the fight through the infamous Wheatfield that followed.

There was little sleep for Rorty's men that evening, as Battery B was shifted north along Cemetery Ridge to bolster the center of the Union line. It was there, along a low stone wall near a copse of trees, that Robert E. Lee would launch his last-ditch effort to smash through the Yankee lines. General Hancock's veteran Second Corps would be on hand to meet the Rebel onslaught—an epic struggle that would go down in history as "Pickett's Charge". At 1 p.m. on July 3, 1863, the Confederate artillery exploded into action, paving the way for the infantry assault with the most horrific bombardment ever to take place on American soil. The union batteries fired back, and for two hours the very ground trembled and reeled as hundreds of cannon thundered amidst the rolling smoke and screeching shells.

Captain Rorty's Battery was caught in the hurricane of destruction. "The men sighted their guns as if the fate of the nation depended on their exertions," one officer observed. "With guns dismounted, caissons blown up, and rapidly losing men and horses, the intrepid commander moved from gun to gun as coolly as if on a West Point review." With many of his men down and all but one of his guns smashed or disabled, Rorty cast aside his sword and belt, stripped off his uniform jacket, and joined the powder-stained crew at the remaining piece. Shouting encouragement, the Captain seized a sponge-staff and helped swab out and ram shells down the scorching iron barrel.

On came the Confederate infantry, screaming their high-pitched battle cry. Rorty's gun spewed deadly canister tearing great gaps in the swaying ranks, and the infantry of both sides opened fire. "Death was in the air," one of Rorty's men recalled, "the bullets flying like bees from a disturbed hive."

James Rorty did not live to see the Union victory—the great turning point of the Civil War. Just before the decimated Southern units made a last desperate effort to breach the Union line, the heroic Captain was shot dead, and dropped beside his cannon. First buried where he fell, some two weeks after the armies departed the stricken field, James' younger brother Richard journeyed to Gettysburg, and brought the fallen officer home to New York, where he was laid to rest in Calvary Cemetery.

While the memory of James McKay Rorty has faded with the passage of time, the reaction to his death makes plain the fact that his loss was keenly felt—not only because of his bravery, but because of his promise. "He surpassed everything in the Army of the Potomac on July 3rd," one comrade noted, while another called Rorty "one whose Spartan heroism would shed a lustre upon the brightest days of chivalry." The commander of the Second Corps Artillery reported, "In the death of Captain J.M. Rorty the brigade has lost a worthy officer, a gallant soldier, and an estimable man."

This Memorial Day, as we gather to honor Captain James McKay Rorty, may we draw inspiration from the example of this deep-souled idealist and heroic warrior, who gave his all for his adopted country. May ours and future generations forever keep his memory green.

TRIBUTE TO THOMAS G. PULLEN CREATIVE AND PERFORMING ARTS MAGNET SCHOOL CONCERT BAND AND SHOW CHORUS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. HOYER. Mr. Speaker, I rise today to give tribute to the Thomas G. Pullen Arts Magnet School Concert Band and Show Chorus on the occasion of their upcoming concert to be held at the courtyard of the Rayburn House Office Building on Thursday, June 3, 1993, at 7 o'clock in the evening.

The Thomas G. Pullen Creative and Performing Arts Magnet School in Landover, MD, has gained local, national, and international recognition since it opened its doors for the 1987–88 academic year. The school has gained a reputation of excellence and achievements in music, vocal, keyboard, instrumental, and K–3 Suzuki cello and violin programs, as well as in drama, dance, visual arts, computer arts and media production, literary arts, and creative writing. Moreover, the school has pro-

moted an outstanding academic program resulting in student achievement that ranked first in Prince George's County middle school math scores for 1992–93.

The music department at Thomas G. Pullen School is widely known for its excellence. Music students have performed at the Kennedy Center, Ford's Theater, and Constitution Hall. The school sponsors a chapter of the Tri-M National Music Honor Society and has received the high honor of being named "Chapter of the Year" for 2 consecutive years.

The Thomas G. Pullen Concert Band, under the direction of Ms. Katherine A. Rodeffer, is comprised of 33 students from grades 6, 7, and 8. The concert band has performed at Prince Georges County and Maryland State band festivals. It has achieved superior ratings during all 4 years at the Prince George's County Band and Orchestra Festival, and for the past 2 years the concert band has received superior ratings at the Maryland State Band Festival. Concert band students have also performed in the county and State solo and ensemble festivals, the Prince Georges County Honors Orchestra, and the District of Columbia Youth Orchestra. They have provided music for nursing homes and other community groups and functions. In its entirety the Thomas G. Pullen Band program incorporates four through eight in beginning, intermediate, advanced and jazz bands.

The Show Chorus, now in its second performing year, is a group of 33 students from grades 6, 7, and 8 under the direction of Mrs. Adrian Flynn. This energetic and talented group presents a wide variety of choreographed choral music. The Show Chorus has performed at the University of Maryland School of Nursing, at various nursing homes, at the Prince Georges County Council Administrative Office Building, and at other community group functions throughout the county. In its entirety, the Thomas G. Pullen Vocal Music Program incorporates grades four through eight including an elementary and middle school chorus.

Mr. Speaker, it is indeed an honor and pleasure to applaud and congratulate the Thomas G. Pullen Creative and Performing Arts Magnet School, under the administration of Edward Felegy, superintendent of schools, Kathleen Kurtz, principal, Nancy DePlatchett, arts coordinator, and an outstanding staff of arts and academic teachers, and talented students.

TRIBUTE TO DR. RICHARD D. RUPPERT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. GILLMOR. Mr. Speaker, I rise to pay tribute to Dr. Richard D. Ruppert, who is retiring as the president of the Medical College of Ohio, after a distinguished tenure of 16 years. It is a pleasure to mark this occasion, as Dr. Ruppert has not only been a distinguished president who has worked tirelessly on behalf of his institution, but also a personal friend.

Dr. Ruppert became president of the Medical College of Ohio in 1977 after serving as vice chancellor for health affairs with the Ohio Board of Regents. Since that time, he has overseen the construction of the MCO's $251 million campus. Further, he has initiated plans for two new buildings on the campus: a surgical center hospital addition and a school of nursing and school of allied health building. He has assisted in increasing the MCO enrollment to nearly 2,000 students and the faculty now numbers 366 full and part-time members.

He also extended an extraordinary amount of his time and talent on behalf of his State and community. He has served as the vice chairman of the Toledo-Lucas County Port Authority and chairman of the Port's Economic Development Committee for Northwest Ohio. He was appointed as a member of the 1992 Ohio task force on higher education.

I have worked with Dr. Ruppert during the time I served in the Ohio State Senate, and as Congressman from Ohio's Fifth District, and through the years, I have been deeply impressed by his total commitment to excellence. I wish Dr. Ruppert and his family the very best as they begin this new era in their lives. I send my deepest thanks for his many contributions to the medical profession and to Ohio.

TED NUGENT: A STRAIGHT ARROW WITH STYLE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to a man who has meant a great deal to me, to thousands of sportsmen, and to thousands of young people throughout the Nation. I am speaking of Ted Nugent, the rock superstar who is as good with a bow and arrow as he is with the guitar.

Ted Nugent is once again featured individual at World Bow Hunters Night in our State capital, Lansing. I will be honored to share the podium with him that night, and want our colleagues to know about a true American star.

Ted is a man who has taken the time to show our young people that family values mean more than lipservice, that saying "no" to drugs must be done by example, not just in words, and that protection of our environment and natural resources can be done with a skillful eye to recreation.

Ted Nugent, the "Motor City Madman," has earned the respect and administration of millions of adults and young people through his willingness to meet with people to demonstrate his philosophy of life. He selflessly teaches his skills as a most capable hunter. And he still finds the time to blow your mind with what I think is some of the greatest music in decades.

I have been privileged to have Ted Nugent as a resident of my State, and more importantly to have him as a friend. His wisdom in saying that we all have to take some responsibility to deal with the problems of today and not just expect the Government to make everything all right is a lesson that many Americans need to learn.

CHIEF JAMES SMALL HONORED UPON RETIREMENT

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to Chief James Francis Small. Chief Small has served our Nation in the Naval Reserves since 1967. He has been a stalwart supporter of the Naval Reserves and the U.S. Navy. In November of 1993, Chief Small will be retiring from active duty. Mr. Speaker, I ask you to join me in honoring this man whose life has touched so many others.

Chief Small enlisted in the Navy on October 16, 1967. Since then he has served at numerous duty stations, including the U.S.S. *Barry*, DD–933; SMF 701; the U.S.S. *Adroit*, MSO–509; SIMA Norva, 601; and SIMA Norfolk, 2701. Chief Small is currently a division officer for the SIMA Newport Detachment, 1101.

Chief Small has received several personal and military awards throughout his career of service, including the Meritorious Unit Commendation, the Naval Reserve Meritorious Service Medal—3 awards, the National Defense Service Medal—2 awards, and an Armed Forces Reserve Medal.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Chief James Francis Small. It is only fitting to honor Chief Small at the end of such a distinguished career of military service.

IN COMMEMORATION OF ASIAN PACIFIC AMERICAN MONTH

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. MEEHAN. Mr. Speaker, as we celebrate Asian Pacific-American Month, I think it is appropriate to take a moment to consider the need for the United States to engage in more extensive dialog with India, which will be the world's most populous democratic country by the year 2050. The United States and India should work together to promote better understanding of each other's economic, political, educational, and cultural traditions.

Our shared geopolitical interests dictate that we make a concerted effort to improve Indo-American relations. India recently embarked on a sweeping reform program that opened the way for economic growth and increased foreign trade and investment. I commend India for its willingness to open its doors to foreigners, and I hope that the United States will pursue trade opportunities with the Indian subcontinent.

Our country is home to approximately 1 million Indian-Americans. Like other minorities, they experience prejudice. They are victims of hate crimes, racial bias, and job discrimination. These incidents warrant vigorous efforts to address bigotry, from reporting requirements for hate crimes to cultural awareness programs in our schools and communities.

The Glass Ceiling Commission reports that minorities plateau at lower levels in the work

force than women. Educational institutions and the Department of Labor need to aggressively enforce laws barring discriminatory practices in recruitment and career advancement, and no one should be denied an education or job because of their race or ethnic origin.

As a member of both the caucus on India and Indian-Americans and Small Business Committee, I am concerned about the problems facing Indian-American businesses. H.R. 660, which I have cosponsored, would create a federally chartered but privately owned corporation called the Venture Enhancement and Loan Development Administration for Smaller Undercapitalized Enterprises, also to be known as Velda Sue. This initiative would create a secondary market for small business loans that would provide the necessary incentive for principal lenders to make credit available. The enterprises that would qualify for these loans often represent the best opportunity for minorities to be part of the American dream.

The subcommittee on minority enterprises plans to review the program that sets aside SBA loans for disadvantaged and minority business ventures. As part of that effort, I think the American SBA 8(a) category should be expanded to include Indian-Americans.

I urge my colleagues in the 103d Congress to pay more attention to the concerns of India and Indian-Americans. I can think of no more appropriate time to reflect on our shared interests than during the observance of Asian Pacific-American Month.

TRIBUTE TO HARVEY SCHECHTER

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. BERMAN. Mr. Speaker, we rise today to pay tribute to Harvey Schechter, a close friend and one of the most influential leaders in the history of the Anti-Defamation League [ADL]. We are honored to author this resolution commemorating Harvey's four decades with the ADL. We both respect and admire Harvey for his tireless and passionate devotion to the Jewish community. He has made an inestimable contribution to Jewish life in Los Angeles.

Since 1952, when Harvey joined the ADL's Pacific Southwest regional staff as director of civil rights and factfinding, he has been a vocal and public opponent of anti-Semitism in all its forms. Harvey's reputation for being aggressive and outspoken reflects his position with the Jewish community. His job was not for the timid.

After spending 8 years with the Pacific Southwest region, Harvey was appointed Western States director, which required that he supervise the ADL's investigative and civil rights activities in the Western United States. Twelve years later, he was named Western States director, becoming the supervisor of ADL activities throughout the West. Since 1990, he has served as Western States director of the ADL Foundation.

During Harvey's 41-year career, the Los Angeles Jewish community has become the second largest in the world outside Israel. This phenomenal growth has meant that prominent Los Angelenos play a key part in the affairs of American and world Jewry. Along these lines, Harvey has given numerous interviews to newspapers, magazines, and television stations around the country. The importance of his role cannot be underestimated.

The Los Angeles chapter of the ADL will continue to perform well after Harvey's retirement. Indeed, he has helped put in place a superb staff. Still, there is no replacing a man like Harvey Schechter.

We are privileged to be friends with Harvey and his lovely wife, Hope Mendoza Schechter, who has contributed immeasurably to his success. We ask our colleagues to join us today in saluting these wonderful people who have put the well-being, security, and dignity of the Jewish people above all else.

MEMORIAL DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. HOYER. Mr. Speaker, today, I rise to pay tribute to our country's veterans. I rise to celebrate the contributions that these men and women have made to strengthen our country and protect the freedoms on which our Nation was founded.

In our history, we have celebrated Memorial Day in one form or another for over 127 years. First established to recognize the sacrifices of our young patriots on the battlefields of the Civil War, Memorial Day has taken on increasingly greater importance as generation after generation of Americans has shipped off to fight in Europe, the South Pacific, Korea, Vietnam, and the Middle East.

Each of these generations is tied to the other with a common bond borne of blood, sweat, and tears. Each generation has watched the best and brightest of them die on the field of honor. Each generation has put aside their own self-interest so that they could work to improve the future of their country.

They may have fought different battles and different enemies, but ultimately their sacrifices and efforts were made for the betterment of the Nation.

Over a million Americans have died during our country's armed conflicts, and we can expect that future Americans will again be called to duty.

So on Memorial Day, let's reflect on the sacrifices that others have made for our democracy, and for the freedoms spreading across the globe. On this day we are not only remembering our dead, we are celebrating their legacy.

We are celebrating the Democratic countries in the world which would have still suffered under the shadow of dictatorships if it were not for our troops. We are celebrating the wealth and freedoms of our country which are direct results of their sacrifices. We celebrate the efforts of former enemies to find common ground with us so that we can avoid armed conflict and the early deaths of our young men and women in the future.

Our war dead and our veterans have changed the history of the world. Their bodies may have died, but their will, their deeds, and their memory will live forever.

TRIBUTE TO DR. RICHARD M. SIMON

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to Dr. Richard M. Simon, who will be retiring on June 30, 1993, as the third president of Terra Technical College, Fremont, OH.

Dr. Simon received his bachelor's degree in industrial education from Ball State University in 1956. His master's degree in educational administration was conferred by Ball State in 1958 and an educational doctorate degree in higher education college administration was awarded at Indiana University in 1962.

After completing his graduate work, he began his commitment to higher education, and served at four midwestern colleges. Since taking over as president of Terra, he has seen the campus expand with the securing of funding for student activities center and general technologies building. Terra has also received 10 years accreditation with the North Central Association of Colleges and Schools.

I am proud to count Dr. Simon as a friend, and send my best wishes to him and his entire family as he steps down from the presidency of Terra. I look forward to continuing both our friendship and professional association in the years to come.

OUTDOORS FOREVER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. BARCIA. Mr. Speaker, I want our colleagues to know of a very worthwhile organization known as Outdoors Forever, an affiliate of Michigan United Conservation Clubs.

This private nonprofit organization was incorporated in Michigan in 1986. Outdoors Forever strives to promote enjoyment of outdoor recreation, especially hunting, fishing, and shooting sports. The members of this organization are to be particularly commended for trying to make these activities accessible to all.

I want to pay particular tribute to Don Basee, the president of Outdoors Forever, for his skillful and dedicated leadership of an excellent group.

Outdoors Forever promotes activities that are inclusive. People who use wheelchairs, canes, crutches, or other assistive devices, along with the elderly and others with invisible handicaps can all join in. This inclusion has

helped to educate the general public about the abilities of handicapped individuals, and encouraged handicapped people to fully enjoy the outdoors. The breaking down of attitudinal barriers has been tremendous to see as people can look at each other just as people, not as people with differences.

Outdoors Forever is holding a free fishing weekend in Oscoda, MI. As the organization's major event and fundraiser, it now attracts more sponsors than it can handle. Every single one of these sponsors is most appreciated. The activities sponsored by Outdoors Forever deserve to be duplicated throughout the State of Michigan and the Nation.

SENIOR CHIEF ROBERT STARITA HONORED UPON RETIREMENT

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to Senior Chief Robert Starita. Senior Chief Starita has served our Nation in the U.S. Navy since 1965. He has been a stalwart supporter of the Navy and the Naval Reserves. In June 1993, Senior Chief Starita will be retiring from active duty. Mr. Speaker, I ask you to join me in honoring this man whose life has touched so many others.

Senior Chief Starita enlisted in the Navy in June 1965. Since then he has served at duty stations across the country and in Vietnam. Senior Chief Starita is currently assigned to the Naval and Marine Corps Reserve Center in Manchester, NH.

Senior Chief Starita has received many personal and military awards throughout his career of service. He has spent years developing his own skills and teaching others how to use their skills for the betterment of the country.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Senior Chief Robert Starita. It is only fitting to honor Senior Chief Starita at the end of such a distinguished career of military service.

RECOGNITION OF THE BICENTENNIAL OF THE LAWRENCE ACADEMY IN THE TOWN OF GROTON

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. MEEHAN. Mr. Speaker, it is my pleasure to rise today in recognition of the Lawrence Academy in Groton, MA, and the school's celebration honoring the bicentennial of its opening.

Lawrence Academy has been a strong member of the community for the past 200 years, and I know it will continue that tradition far into the future. When Lawrence Academy was opened 200 years ago, it gave students a jump on life and it has remained on the leading edge of education ever since.

Lawrence Academy has given boys and girls within the Fifth Congressional District, and elsewhere, the attitudes, work ethic, and abilities necessary for them to succeed at whatever endeavors they choose to pursue. With its strong programs in computer sciences and athletics, Lawrence continues to be a leader in innovative education. In addition, unique programming such as Winterim and Lawrence II continue to distinguish Lawrence Academy from all other private schools.

Today, 200 years later, Lawrence Academy continues to offer its services and facilities whenever possible to the town of Groton. Lawrence Academy has realized that it is not a separate entity from the community, and in spite of its tax exempt status it now budgets annually to help pay its share of expenses to the town.

Mr. Speaker, I would like to salute the institution, the staff, students, and alumni as they celebrate the school's bicentennial. I am particularly familiar with this institution's success and educational quality as I have a Lawrence Academy graduate as part of my Washington, DC staff. For this I am proud to rise today to congratulate the many people who have made the Lawrence Academy in Groton an outstanding institution.

FIRST ANNUAL STUDENT ART COMPETITION A GREAT SUCCESS

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. KING. Mr. Speaker, I rise to pay special tribute to the talented and hard working young men and women who participated in my First Annual Student Art Competition on May 1, 1993. The exceptional art work submitted by 21 students from high schools across Nassau County, NY impressed me and a very distinguished panel of judges.

The Third District competition was held in conjunction with "An Artistic Discovery," the nationwide arts program sponsored by the Congressional Arts Caucus. I am very proud to be an active member of the Arts Caucus and to support its mission of promoting the arts and encouraging the creative talents of young Americans.

Mr. Speaker, I am very proud to report to my colleagues in the House of Representatives the results of the Third District's art competition:

Winner: Jenny Shin, Syosset High School.

Runners-up: Edwin Graham, Long Beach High School and Danielle Monsess, Hicksville High School.

Entrants: Kara Fiorito, East Rockaway High School, Allyson Verdone, East Rockaway High School, Jeff Schroeder, Farmingdale High School, Julie Macus, Baldwin Senior High School, Dan Loesch, Baldwin Senior High School, Tracey Bacher, Baldwin Senior High School, Sharon Hoffman, Oyster Bay High School, Dorothy Moore, Oyster Bay High School, Cheryl Im, MacArthur High School, Rebecca Gillman, Seaford High School, Cara Palermo, Massapequa High School, John Green, Freeport High School, Vanessa Dodard, Freeport High School, Shelby Colbert, Glen Cove High School, Diana Costantino, Glen Cove High School, David Chopard, Glen Cove High School, Laura Mango, Hicksville High School, and Elaine Chow, Hicksville High School.

In addition to the participants, I want to pay tribute, recognize, and extend my sincere thanks to those whose hard work made the competition such a success. Dr. Grace Shen and Rona Epstein of the Long Island Arts Council were a tremendous help to me and my staff as the cosponsors of the event. Their hard work and sense of commitment were truly inspiring. I also want to recognize the very distinguished panel of judges, Tony Shen of Lynbrook, Paul Wood of Port Washington and Mary Westring of Freeport. They were faced with the difficult task of evaluating the entries and, I am very pleased to say, did a truly magnificent job. Each of these civic-minded individuals has earned the thanks of the people of the Third District.

Finally, I want to thank my hard working district office staff. In a very short period of time, they were able to put together a very successful and worthwhile cultural event that for the first time has linked together the communities of the Third District. A special thanks is owed to my senior staffers Randy Yunker and Craig Mollo as well as Anne Kelly, Peggy Donovan, and Jim Hennessy. Mr. Speaker, I know that I am very fortunate to have such dedicated people on my team and at work for the people in my district.

DR. STEPHANIE M.G. WRIGHT: AN INNOVATOR IN EDUCATION

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. CASTLE. Mr. Speaker, I ask my colleagues to join me in acknowledging the fine work of Dr. Stephanie M.G. Wright of Delaware.

Aerospace education is an essential learning element to advance our national scientific interests. Our elementary and secondary schools must introduce and conduct these programs.

Over the past 5 years, Dr. Stephanie M.G. Wright has developed, introduced and conducted aerospace education activities for schools throughout the State of Delaware.

Dr. Wright has over 24 years of experience in education. A Phi Beta Kappa and listed in Who's Who in American Education, Dr. Wright has made more than 280 presentations in the State of Delaware to students, teachers and the general public about space science and technology.

Under the direction of Dr. Wright, Delaware Aerospace Centers have been established in Delaware's three counties—New Castle, Kent, and Sussex. Centers contain NASA, FAA, Civil Air Patrol, and Air Force materials for our State's educators.

Working out of the Aerospace Center in New Castle County, Dr. Wright actively sponsors the State's Aerospace Academy and other Statewide aerospace activities.

As one of NASA's space ambassadors, Dr. Wright was the first Delaware recipient of the Christa McAuliffe fellowship from the U.S. De-

partment of Education in 1987. In addition to her State position as director of aerospace education, Dr. Wright is currently the president and director of the Delaware Aerospace Education Foundation; a member of the National Teacher's Association, U.S. Space Foundation, an honorary lifetime member of the Challenger Center and State vice president of the Air Force Association of Delaware.

A member of the board of directors of science alliance, Dr. Wright was most recently recognized by women in aerospace, a national professional society. She has also been inducted into the University of Delaware's Alumni Hall of Fame.

Over the past 2 years, Dr. Wright's latest innovation has been the introduction, through teachers in 30 selected classrooms, of a vision of exploration program sponsored by Gannet's The News Journal newspaper and the Air Force Association's Aerospace Education Foundation.

Residing in Bear, DE, with her husband Brian, and sons Harry and Henry, Dr. Wright has met the aerospace education challenge with vigor, keen interest, leadership, and untiring devotion. Her innovative projects have fulfilled a vital role in aerospace education in the State of Delaware.

Dr. Wright's efforts are an example of the tremendous contribution individuals can make to improving education in this Nation. I ask my colleagues to join me in saluting Dr. Wright for her work.

NEW DIRECTIONS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. CLINGER. Mr. Speaker, yesterday, I had the pleasure of addressing a procurement conference attended by nearly 350 government and industry executives involved with the Federal Government's management and utilization of information resources. It is clear that the wise application of information technology is absolutely critical to the Federal Government's ability to adequately address the myriad of problems facing our Nation. The Federal Sources Outlook '94 Conference provided an important forum for the exchange of ideas, knowledge, and information on the Government's use of information technology.

Reprinted below is a copy of my address to the conference.

NEW DIRECTIONS—A PROCUREMENT PROCESS THAT SERVES THE CITIZENS

The theme for this year's Outlook Conference could not be more appropriate—"New Directions." When you see all the new faces in Washington you can't help but conclude that the Federal Government may be headed in some new directions when it comes to information technology.

You can start with Congress. One-hundred and ten new Members of the House. One-hundred and ten individuals with diverse backgrounds and experiences. Many of whom are coming to Congress with hands-on experience using information technology in their previous lives as teachers, small-business owners, state legislators, or community leaders. These new members are going to bring a wealth of experience, knowledge and fresh ideas to any congressional debate on the Federal Government's utilization of information technology.

Add to the mix significant changes in a number of key committee positions. Probably the most significant is the change at the House Armed Services Committee where Ron Dellums of California replaces the new Secretary of Defense, Les Aspin. In playing a key role in shaping the size and responsibilities of a post-Cold War American military, Chairman Dellums will at the same time be shaping the way the Pentagon buys and utilizes information technology. He will be joined in that effort by the 17 new House Members who are serving on his committee.

Combine the new faces in Congress with the new faces in the Administration and again, you come up with new directions. Starting with the Clinton/Gore position paper, "Technology for America's Economic Growth, A New Direction to Build Economic Strength", the administration is striving to communicate a message of new direction when it comes to using technology to address America's problems.

Some of the President's appointments are further evidence of at least the intention to move the Executive Branch in new directions. In selecting Roger Johnson to head the General Services Administration the President gave notice that he intended to move away from GSA's traditional emphasis on real estate and property management. In appointing John Rollwagen to Commerce's top technology job, the President gave notice of a new emphasis at Commerce. Now we need to get Johnson on board at GSA and a replacement needs to be found for Rollwagen who withdrew from consideration.

As Federal Computer Week noted in its May 10 issue, the confirmation of Sally Katzen as the head of the Office of Information and Regulatory Affairs (OIRA) "couldn't come too soon". The newspaper concluded that "an administration that places such a high value on technology needs a regulatory base in place before it can build its information infrastructure." I couldn't agree more.

But it is not all new faces around Washington's IRM offices. In fact, many of the men and women who will be addressing the conference later today, continue to serve in key positions in the Executive Branch. These are many of the same people who helped forge the Federal Government's initial efforts in the use of information technology, and who will help lead future efforts in new directions.

But there is one other change on Capitol Hill that I should probably mention. It is because of that change that I am here today.

For the past nineteen years, Congressman Frank Horton served as the Ranking Republican on the Committee on Government Operations. For most of those years, Frank teamed with the former-chairman of the committee, Jack Brooks, in writing, passing and overseeing the implementation of many of the procurement laws now in force. Last summer, Frank decided that 32-years in Congress were enough and that it was time to pursue other interests. In December, my Republican colleagues chose me to succeed Frank as the committee's Ranking Republican.

I am now in my 15th year on the Government Operations Committee. But when it comes to the complexities of procurement policy, I feel like a freshman Member. My staff, agency officials, industry representatives and others have bombarded me with "best value", "multiple award schedule", and "best and final offer". A few months ago, I told Edith Herman of Federal Computer Week that I felt like "a Strasbourg goose. They just keep stuffing it in."

But the more time I spend learning about procurement, the more I find myself coming back to Ronald Reagan's oft-repeated dictum, "Government is too big and costs too much!" He was right 12-years ago and he is still right today.

If there is any doubt, take a look at the budget Congress passed earlier this year. That budget will increase government outlays from $1.47 trillion in 1993 to $1.68 trillion in 1997, to $1.75 trillion in 1998. If you who don't think government costs too much now, stick around another five years when outlays will go up $280 billion.

If we are going to reverse that trend, make government more efficient and cost-effective, then three things must be done:

First, we need to improve the planning process used to decide how tax dollars are spent. Key is the establishment of an investment or capital budget to give decisionmakers a comprehensive picture of investment programs across agency and program lines. Despite the billions we spend each year on capital investments, the government has neither an overall policy-making process nor a government-wide analysis of information to support investment policy-making. Establishing a capital or investment budget will ultimately improve the likelihood that Federal investments in information technology will be adequately funded.

Second, agencies, departments and programs must be held accountable for producing results. We have to stop measuring success by inputs—how much money was spent—and begin measuring a program's success by outputs—what measurable result did we get for the money spent. I am pleased to report that last night, the House passed a "performance-based budget" bill introduced by Chairman John Conyers, Congressman Joe McDade and myself, that will move us down the road to judging agencies by performance. Holding agencies accountable for producing results will inevitably strengthen their resolve to make use of the benefits derived from the wise use of information technology.

Third, and the point most relevant to today's discussion, Members of Congress, congressional staff, contract officers, Inspectors General and the General Accounting Office must stop making the procurement process the goal. The efficient delivery of services and benefits must be the goal. There must be a procurement process that allows agencies and departments to acquire what is needed to efficiently deliver services and benefits.

We need to move toward the same kind of mind-set reflected in GSA's "Service to the Citizens" task force. Like the task force, we need to look for ways to use technology to provide better service to citizens—to give citizens easier and better access to services and information—to make it easier to obtain retirement benefits, business loans, mortgages.

At the same time, we need to move away from a mind-set that gives us a Multiple Award Schedule game of chicken between the General Services Administration and the nation's software vendors. "Users Are Losers" read one newspaper headline, as the government's computer users found another obstacle confronting them as they tried to serve the public. That is just not acceptable.

Many of you have probably read portions of the Section 800 Panel's report on Stream-

lining Defense Acquisition Law. The report cites one of the most vivid examples of a procurement system that ignores the customer. During the Gulf War, the U.S. Army placed an emergency order for 6,000 commercial radio receivers. But no responsible procurement official could be found who would waive the requirement for the company to certify that the Army was being offered the lowest available price. Since the radio was widely marketed and any misstatement might constitute a felony, no company official would make this certification. The impasse was resolved only when the Japanese Government bought the radios without a price certification, donated them to the U.S. Army, and credited the purchase against Japan's financial contribution to Operation Desert Storm. Again, the procurement process was the goal. The delivery of service to the customer, the U.S. Army, came second.

What are the prospects of reform during the 103d Congress? Will Congress and the new administration have the will to do more than simply tinker around the edges? I have my doubts.

Procurement reform is already splintered on Capitol Hill:

We have a modest bill in the House that is receiving lukewarm support. There is no indication that the bill will be accepted in the Senate.

John Glenn has introduced four separate procurement bills in the Senate, and according to the latest information, intends to defer action until the administration can get its team in place. Even if the measures are reported by the Senate, Chairman Conyers has given no indication that he would act favorably on the four bills.

The effort to elevate EPA to cabinet status has been muddied by the inclusion of government-wide procurement language, opposed by industry and the bipartisan leadership of the Armed Services Committee. The Administration has its own version of this language.

Meanwhile: Congressional staff are pouring over the Section 800 Panel's report; the Administration is emersed in its National Performance Review; and the Defense Department is involved in its own comprehensive effort on procurement reform, including a Defense Science Board Task Force to undertake a three-month study of the acquisition process.

How this will play out is anyone's guess. Each of these initiatives has a certain amount of merit. The incremental procurement reforms contained in the House bill and the four Glenn bills are a step in the right direction. In fact, the House bill contains many of the provisions contained in the four Glenn bills: A three-year GSA authorization; requirements for detailed post-award briefings; clarification of the fact that GAO cost awards are recommendations only; and amendments to the Competition in Contracting Act impacting "best value" contracts.

However, the House bill differs from the four Glenn bills in a number of areas: It increases the threshold for agency requests for contractor cost or pricing data from $100,000 to $500,000, thereby decreasing paperwork burden on industry; it requires an agency to grant an exemption for cost and pricing data where there is adequate price competition; and it increases the small purchase threshold from $25,000 to $50,000. Agencies could increase the threshold up to $100,000 once the agency implements an electronic data interchange system to provide prospective bidders with improved access to information on procurements.

While I support these changes, I cannot help but feel that we are still tinkering. We are still playing around the edges of a system that does not go far enough in encouraging the use of commercial products, that discourages the government-industry partnership needed to identify solutions to complex problems, and that values the status quo over innovation.

We have the opportunity to make real change in the way the government buys its goods and services. The Section 800 Panel's recommendations go a long way toward this change. But with the multiple goals, multiple agendas, and the competing political interests of all the people involved, it's hard to imagine that anything significant will actually happen. Of course, that doesn't mean we shouldn't keep trying to bring sense to a procurement system that's out of control.

The problems we face are not new. In 1841, one of the predecessor committees to the Government Operations Committee studied whether accepting lowest price bids provided the greatest benefits to the government. That sounds a lot like the "best value" debate that is currently underway. If we are going to succeed in making real change in the way government acquires, manages and utilizes goods and services, we are going to have to find a way to get past issues debated since the 1840's.

I hope that my colleagues—both majority and minority, and in both the House and Senate—will join with me in an effort to get our collective arms around this problem. Only then can we except to change the mindset that places process over results, and therefore, effect real procurement reform.

SSI OUTREACH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. STARK. Mr. Speaker, The Supplemental Security Income [SSI] Program was begun to provide a safety net for our country's poor, elderly, blind, and disabled people.

Over the years I have followed the outreach efforts of the Social Security Administration [SSA] to inform potentially eligible people about the SSI Program. The SSA staff downsizing during the Reagan administration curtailed most previous SSI outreach efforts of the agency. About the same time, various studies conducted to evaluate the SSI program concluded that up to 50 percent of those eligible to receive benefits were not receiving them. This led Congress to make funds available to the SSA in fiscal year 1990 and 1991 to fund SSI outreach projects.

A number of outreach programs designed and carried out by local governments and nonprofit organizations have been funded by these appropriated funds. These programs have the potential of helping the SSA staff and other interested people learn what the most effective means of letting people know about the program are and how to assist them through the cumbersome process. The results of these outreach efforts are yet to be made available.

For some time I have thought that one of the quickest and most economical ways of signing eligible people up for the SSI Program would be to use staff of nonprofit organizations who work with the poor. Many of these people already are very knowledgeable about the program and have the trust of potential SSI recipients. If they aided people in filling out the forms and collected the necessary documentation, they would cut down on the time overworked SSA staff would have to spend with the potential SSI applicants. In return for the time spent by staff, the nonprofit would receive a fixed amount of money for each person that turned out to be eligible for the SSI Program. This idea is the basis for the legislation I am introducing today. My bill creates two demonstration projects, one in a poor urban area and one in a poor rural area, to test this idea.

PATRICK DALY HONORED

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Ms. VELÁZQUEZ. Mr. Speaker, I rise this evening to honor the memory of Patrick Daly, former principal of P.S. 15 in the Red Hook Section of Brooklyn, who devoted 24 years of his life to improving the lives of the children of New York.

During his lifetime, Mr. Daly was one of the city's greatest unsung heroes. His tragic death, another fatality of the drug war, leaves an enormous void in our community and this Nation. Patrick Daly made a difference in a community plagued by poverty and violence. He always went the extra mile for the people who comprised his extended family—his students, their parents, and the school's faculty. Because of his vision, many of his students continue to pursue the American dream, instead of a life on the streets. Sadly, it was this commitment and vision, combined with his sensitivity that led to Mr. Daly's death as he roamed the streets in search of one of his students who had left the school building earlier that day due to an altercation with another student.

Mr. Speaker, it is fitting that we pause in our deliberations to pay tribute to this fallen hero. This evening, P.S. 15 will be renamed the Patrick Daly School. I join the Red Hook community, not only to honor the work and dedication of Mr. Daly, but to hope that his dreams of better education and a better future can live on in this building which now bears his name.

CONGRESSMAN KILDEE CELEBRATES LAMBERT-STRAHAM FAMILY REUNION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in recognizing the Lambert-Straham family reunion. On June 18, 19, and 20, 1993, this accomplished family will come together for the first time in my hometown, Flint, MI.

The union of George Washington Lambert, Jr., and Elvira Seay Lambert began in Warren, AR, and bore nine children. Mr. Lambert was employed at a sawmill for 30 years, while Mrs. Lambert maintained a household filled with love and warmth. As active and dedicated members of Bethel AME Church in Arkansas, the family was educated to the value of togetherness.

The family learned discipline, hospitality, and the love of God very early on in life. Tuna sandwiches and Kool-aid on Saturdays and rice and gravy complete with steak or sausage on Sundays are just a few of the many traditions the Lamberts will be reminiscing about with pleasure.

The dedication of their parents is evident by the success of the children. Bessie Lambert Straham, the eighth child, is the first female high school principal in the Flint Community Schools. The remaining children, Margaret Nunley of Milwaukee; Bereatha Jamison of Monticello, AR; Charles Lambert of Chicago; Otis Lambert of San Diego; and Arthur Ray Lambert of Little Rock live on to carry the very powerful legacy of George and Elvira Lambert. The reunion will not be without sorrow, however, for Robert, Ollie, and George III are completing their work with the Lord.

Mr. Speaker, without a doubt this remarkable family will be reminiscing and remembering their happy childhood at their long-awaited reunion. Being born to the same parents makes you relatives. Love and loyalty make you a family.

CALIFORNIA ASSEMBLYWOMAN JACKIE SPEIER HONORED

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Ms. ESHOO. Mr. Speaker, the San Mateo unit of the American Cancer Society is honoring California Assemblywoman Jackie Speier on Friday, June 4, 1993. On this occasion, I rise today to join the Cancer Society in paying tribute to this remarkable woman.

I had the pleasure of serving on the San Mateo County Board of Supervisors with Assemblywoman Speier at a time when there were few women elected officials. During her tenure on the board of supervisors and throughout her career in public service Assemblywoman Speier has shown tremendous personal and professional courage. She has taken on weighty issues, scored impressive legislative victories, and been a model of courageous leadership.

A strong advocate of health care reform, she has been an unwavering advocate of women's health issues. She fought to limit doctor's referrals of patients to facilities they own and worked to improve the quality of medical care by attempting to limit the hours per day worked by medical residents and interns. She has also addressed issues of drug safety and access, including controls of valium and halcion, and access to RU486 and currently is working to strengthen laws to protect emergency room workers from violence in their workplace.

While becoming one of California's most effective legislators, Assemblywoman Speier has remained dedicated to her family. She works hard on behalf of all Californians, but her husband, Dr. Steve Sierra, and 4-year-old son, Jackson, will always be her first priority.

Mr. Speaker, Assemblywoman Jackie Speier is truly an outstanding citizen. I am privileged that she is one of my dearest friends and proud to pay tribute to her today.

COL. EDWARD P. CLEMENTS HONORED

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mrs. VUCANOVICH. Mr. Speaker, I rise today to congratulate Col. Edward P. Clements, vice commander of the U.S. Air Force Tactical Fighter Weapons Center, Nellis Air Force Base, NV, on his retirement, Thursday, May 27, 1993.

Graduating from the University of Arkansas in 1967, he earned a bachelor of science degree in industrial engineering. He completed Air Force Reserve Officer Training Corps the same year, furthering his training through Squadron Officer School in 1972, Air Command Staff College in 1979, and the Industrial College of Armed Forces in 1988. Also in 1988, he completed a master's degree in public administration.

Between the years of 1967 and 1970, he earned command pilot wings, flying 3,500 hours, as well as 268 hours of combat in Vietnam and Thailand. In 1975, Colonel Clements began test piloting the F–15, and by 1977, he was selected as one of the initial instructors for the F–15 Fighter Weapons School at Nellis Air Force Base, NV. He moved to headquarters, Langley Air Force Base, VA, in 1981, where he became Fighter Operations Director, Weapons and Tactics Division. Returning to Nellis for 2 years, he commanded the 422d Test and Evaluation Squadron. In 1990, he began his current position.

This well-decorated officer was promoted to the rank of colonel in 1985. He has been awarded the Distinguished Flying Cross with one oak leaf cluster, the Air Medal with nine oak leaf clusters, the Joint Service Commendation Medal and the Republic of Vietnam Gallantry Cross.

It is with great pleasure that I commend Colonel Clements as he concludes a most distinguished career. His contribution to his country has been great, and I wish him well in the future.

CLARIFICATION OF VOTE

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. POMEROY. Mr. Speaker, I rise to make a point of clarification on my vote on the Reconciliation bill. I voted for the bill. However, I do wish the record to reflect that I have serious reservations about the direct student loan program authorized by the bill. Rather than jumping headfirst into an unproven venture, I believe the more proven course is one embodied in H.R. 2219, of which I am a cosponsor. This bill would allow the direct loan pilot program established last year to run its course and find the $4.3 billion in savings by reforming the existing guaranteed student loan system. I believe we can achieve the required savings within the existing student loan framework—specifically by eliminating more-than-competitive returns to loan providers and servicers.

The administration's program has good intentions, but I have serious doubts about the viability of this proposal. To begin with, I am not certain the savings will ever be realized when you consider the long-term economic picture. Additionally, the failure of the FISL program places the ability of the Department of Education to run a much more extensive program in question.

It all boils down to this: We must walk first before we can run, and Government is no exception. When this proposal was debated last year, Congress decided to implement a pilot program to see if it can work. We should see this through, and then work toward full implementation if the desired results are obtained. As a member of the Budget Committee, I realize that savings must be found in all functions of the budget. However, budget caps do not require us to make hasty decisions with huge implications when savings can be found elsewhere. Our alternative to direct lending, H.R. 2219, would meet the target of $4.3 billion in savings by cutting excess profits.

It is my hope that although this provision has passed the House, the Senate will reject direct lending and prevail in conference.

AND THEY CALLED GEORGE BUSH A LIAR

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mrs. BENTLEY. Mr. Speaker, last fall during the Presidential debates, George Bush told the American people—point blank—that if the Governor from Arkansas wanted to finance his grandiose programs, he would have to go all the way down to the $36,000 income bracket in order to do it. The Clinton forces called President Bush a liar.

Well, here we are—4 months into Bill Clinton's Presidency—and surprise, surprise, guess who is about to be taken to the cleaners. The senior citizens, of course. A single retiree who has worked hard to save a few dollars for retirement, now is going to be forced to carry the load. If the retiree receives more than $25,000 a year in benefits—the tax rate is going to go from 50 percent to 85 percent on anything over that original $25,000. The same thing applies for retired couples who are unlucky enough to have benefits above the $32,000 mark.

The White House keeps saying that they want to go after wealthy senior citizens. What are they talking about? Sadly, the retired cou-

ple who receives $32,000 will be taxed, while their wealthier married children, who might make a combined income of $70,000—would not have any additional income taxes levied against them because the new top rate would not kick in until the $140,000 level is reached. Mr. Speaker, let's not clip our seniors any more.

A TRADE MARRIAGE MADE IN HEAVEN

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Ms. KAPTUR. Mr. Speaker, when representatives of the last administration negotiated the North American Free-Trade Agreement with Canada and Mexico, they lost sight of their real task, increasing standards of living for the citizens of our continent. The result is a document that is critically flawed.

It is my hope that the present administration will fix NAFTA's shortcomings, either through supplemental agreements or through renegotiation. And to guide their work, I suggest they heed the insightful comments of Lane Kirkland, president of the AFL–CIO, in the Washington Post.

Mr. Kirkland has proposed that as a precursor to integrating our economy with Mexico's, we integrate with Europe. Not only would this create a much larger market than integration with Mexico, but our high standard of living would be reinforced by Europe's, rather than being dragged down by Mexico's poorer economy and undemocratic political system.

Mr. Kirkland has breathed fresh air into the stale, narrowly-drawn trade policies which have gotten our country into so much trouble. I ask unanimous consent that Mr. Kirkland's article be entered in the CONGRESSIONAL RECORD.

[The Washington Post, May 19, 1993]

A TRADE MARRIAGE MADE IN HEAVEN

(By Lane Kirkland)

President Clinton is in a quandary over his predecessor's North American Free Trade Agreement. While hoping to make NAFTA more palatable to its critics by negotiating "side agreements" on labor and environmental standards, he also knows that any truly effective and enforceable standards will be labeled "protectionist" by business supporters and will cause them to jump ship.

Fortunately, there is a way out—a credible alternative that will expand America's trade opportunities without forcing down the wages and working conditions of U.S. and Canadian workers.

Instead of trying to fix a North American Free Trade Agreement, the administration should boldly propose a North Atlantic Free Trade Agreement.

A NAFTA negotiated with the 12 nations of the $6 trillion European Economic Community would link the U.S. and Canada to a trading bloc accounting for $13 trillion in gross domestic product. It would create a single market of more than 600 million consumers.

Unlike a NAFTA agreement with Mexico, a North Atlantic Free Trade Agreement with Europe would benefit—not harm—U.S. and Canadian workers. It would tie us to countries with high wages, strong consumer purchasing power and high standards of living. It also would enable American workers to benefit from a European Social Charter that sets standards on vocational training, equal pay for equal work, freedom of association and the right to collective bargaining. Instead of setting off a cutthroat competition with Mexico's underpaid workers, a North Atlantic Free Trade Agreement with Europe would create a rational trading partnership with countries where workers enjoy a similar living standard.

It would cement a trading relationship that also could ease and open up mutually beneficial investment within the world's largest bloc of capital. A new Atlantic NAFTA could resolve escalating U.S.-European trade tensions by opening up markets for American farmers, could lead to cooperative relationships designed to improve high-tech industries and could help reverse a process of deindustrialization that has brought the number of high-paying manufacturing jobs down to only 16.8 percent of our work force.

A North Atlantic Free Trade bloc would have the clout with which to negotiate balanced trade with Japan and China. For example, American steel and auto workers would be glad to see our country adopt Europe's industrial and trade policies, which include limits on Japanese and Asian steel imports and tough quotas on Japanese auto imports.

As for Mexican workers, they would fare much better if Mexico were eventually brought into a North Atlantic trade agreement than they would under the current plan for a North American pact. For example, while the current version of NAFTA would have a depressing effect on U.S. jobs and markets, Mexican workers would benefit from a stronger U.S. economy that would result from the new North Atlantic bloc. They would also have a chance to improve their own fortunes under the North Atlantic bloc's Social Charter, rather than having to face the prospect of ever-lower wages and conditions under a NAFTA that has no effective or enforceable standards.

Real free traders wouldn't object. After all, what free trader would oppose creating a trade zone for one-half the world's GNP? Such an agreement would also deserve the support of workers and their unions both here and in Europe—as long as the Social Charter continues to be part of the deal. And European leaders, confronting several years of low growth—much like our own—could endorse a new NAFTA as a means of breathing life into sluggish economies.

The new NAFTA would anchor the U.S. in Europe in the post-Cold War era, acting as a compelling antidote for isolationist voices that have been a persistent and dangerous undercurrent in American political life. Permanent U.S. cooperation with Europe—economic rather than military—would help ensure that continent of America's longstanding commitment to a region that has been at the center of two world wars. A North Atlantic Free Trade Agreement would reinforce the common democratic values that are at the root of the NATO political-military alliance.

So why has no one proposed this already? The answer is simple. The financial elites pushing the current NAFTA aren't really interested in uplifting living standards in either Mexico or the United States but in making a quick profit by exploiting Mexico's low wages and poor enforcement of environmental and labor laws. In their short-sighted view, linking our economy with Europe defeats this purpose.

It's time for President Clinton and the congressional leadership to look at shaping a new kind of NAFTA—a North Atlantic Free Trade Agreement—that would put us on an upward path of hope and progress rather than on a downward spiral of exploitation and folly.

HONORING GEORGE M. MATHIEU

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to a distinguished civil servant, George M. Mathieu, of Bowie, MD, who is retiring at the end of May after more than a half century of service to his country, the last 36 years with the Federal Aviation Administration and its predecessor agency, the Civil Aeronautics Administration.

Such a long career is remarkable in its own right these days, but what distinguishes Mr. Mathieu is that he still has the same fresh enthusiasm and zest for his job as he did starting out in 1941 as a writer and director of the Navy's photographic science lab, working on technical films. One of the reasons for his continued enthusiasm is that Mr. Mathieu has been able to combine a passionate personal interest in photography and aviation with a professional career. Much of his career has been taken up with one or both of these pursuits. Before joining the CAA, for example, he had a brief stint during World War II working with Walter Cronkite on films showing America's air power in the fight against fascism.

Now, as senior media communications specialist at FAA headquarters, Mr. Mathieu designs and produces exhibits on various aviation topics. Four years ago, for example, he designed a lowcost, table-topic exhibit, inexpensive to produce and ship, and easy to assemble. Scores of these exhibits are now on display at airshows, pilot conventions, and training clinics throughout the United States and abroad, providing safety tips on subjects ranging from avoiding runway incursions to showing pilots how and where to get a proper preflight weather briefing.

Among his many other talents, Mr. Mathieu is fluent in French—having spent summers as a youth with his grandparents in Lyon—and occasionally has been called upon to pinchhit as a translator for the FAA. It was his French grandfather, a photographer, who instilled in him a lifelong interest in photography.

In the final analysis, though, it is not his varied talents, but a keen sense of public service that has been the hallmark of Mr. Mathieu's career. His colleagues who have worked with him for many years attest to his unfailing courtesy and kindness to them and the thousands of citizens who called upon him over the years for assistance. He always was able to find time to take care of their needs, no matter how busy he happened to be at the time.

I am proud to represent Mr. Mathieu in Congress, and it is a privilege for me to honor him in this small way as he brings his Federal career to a close. The people of my State owe

a debt of gratitude to Mr. Mathieu for his distinguished service to this country.

CONGRESSMAN KILDEE RECOGNIZES OUTSTANDING ACHIEVEMENTS OF LAMBDA RHO ZETA CHAPTER OF ZETA PHI BETA SORORITY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. KILDEE. Mr. Speaker, I rise before you today to recognize the achievements of the Lambda Rho Zeta chapter of Zeta Phi Beta Sorority Inc. This remarkable organization is celebrating 10 years of service to the youth of our community on June 5, 1993, at the Main Event Restaurant in the Pontiac Silverdome. Community members will gather to celebrate the great works the Zeta Phi Beta Sorority has performed in the name of womanhood and sisterly love.

The Zeta Phi Beta Sorority has been a bedrock of fortitude and support for youth since it was organized and chartered in 1983. Through scholarships and mentoring programs, the Zeta Phi Beta Sorority has enhanced the cultural, spiritual and educational development of Pontiac area youth.

The national organization of Zeta Phi Beta Sorority Inc., was established at Howard University in 1920. It has sought to foster a sense of pride in people of color through selections of Woman of the Year, Family of the Year, Man of the Year and Community Service Awards. Members have given generously of their time, talents and love to make a strong and vibrant order.

Throughout the years, the local chapter has grown and expanded under the vision and dedication of its leaders, Sorors Edna Metoyer, Willie Aldridge, Brenda Street and the current leader, Soror Janice Simpson. I am truly blessed to have the privilege of serving such dedicated individuals in the House of Representatives.

Mr. Speaker, it is with great pride that I ask you and my fellow Members of the 103d Congress to join me in saluting the Lambda Rho Zeta chapter of the Zeta Phi Beta Sorority, Inc. Self evident is their commitment to enhancing the dignity and nurturing the spirits of all people. I am grateful to have the opportunity to serve as their Congressman and will continue to look upon them as examples of what all Americans should strive to be.

ON THE AIR WITH THE OUTDOORSMAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. BARCIA. Mr. Speaker, in Michigan the great outdoors is a source of pleasure during all seasons. People come to our State to work and play. Some find outdoor recreational activities a perfect vacation, while for others it is a wonderful means of livelihood. For these and others who seek to learn more about our State, Lanny Creel Virden and Linda Virden, and the TV show, "The Outdoorsman" have become a valuable source of information.

"The Outdoorsman" has been on the air for almost 9 years and is currently the longest-running commercial outdoor show broadcast in Michigan. The program is a finely researched and produced vehicle that seeks to present Michigan as a place where families can find plenty to do together. It also seeks to present information that is current for the season and the weather and strives to show how the beauty and the activities of the outdoors in this State can be accessible to all.

Lanny Virden and Linda Virden are most knowledgeable about the ways of the wilderness and veritable wells of information on the secrets and obvious delights of our native fields and streams. They are not reclusive. They have access to the research and the relevant knowledge of others through membership in the National Rifle Association, the Michigan Outdoor Writers Association, and the Outdoor Writers Association of America. I commend them for the exceptional job they do.

Mr. Speaker, if people are looking for wholesome, educational, far-sighted entertainment, they need look no further than "The Outdoorsman." I commend this wonderful program and its creators to our colleagues.

AMERICAN LIBERTIES MEDALLION PRESENTED TO JAN KARSKI

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. GEJDENSON. Mr. Speaker, earlier this month, at the 87th annual meeting of the American Jewish Committee [AJC], the American Liberties Medallion was presented to Jan Karski. Karski is one of the living heroes of the Polish resistance. A Polish diplomat, resistance figure and courier, Karski repeatedly risked his life to bring word to the West of the horrors of the Holocaust. He snuck in and out of the Warsaw Ghetto and the death camps to report the truth of the Nazi annihilation of Polish Jewry. Karski, a Polish Catholic, even accompanied Vice President Gore to the Warsaw Ghetto uprising commemoration in Poland last month.

I am honored to enter the following address by David Harris, the executive vice president of AJC, in which he presented the medallion to Karski and Karski's moving acceptance speech into the record.

PRESENTATION OF AMERICAN LIBERTIES MEDALLION TO JAN KARSKI

(By David A. Harris, Executive Vice President, American Jewish Committee)

Listen, please listen to their voices, their pain, their anguish * * * "A coat of snow shines and twinkles in the light of the matchless, golden Polish fall. That snow is nothing other than the down feathers of Jewish bedding left along with all their goods—chests, trunks, suitcases full of clothing, pots, pans, plates—by the 300,000 Jews deported eastwards. Abandoned goods: tablecloths, coats, blankets, sweaters, books, cradles, documents, pictures, all that is lying in disorder in the apartments, in squares, in piles covered by that 'snow' of the period of the German mass murder of Jews.

"The ghastly silence is cut by revolver shots, the rattle of machine guns, the clamor of doors broken in and the shattering of furniture, the hoarse cries 'alle juden raus' (all Jews out), the macabre march of Jewish victims sentenced to death, under the watch of S.S. officers. Households dead or dying, streets full of barbed-wire entanglements, and, above all, the complete absence of the throngs who 2 months ago still crowded the main streets of the ghetto. Complete emptiness. This is the picture of the Warsaw ghetto in September, 1942.

"A human form sneaking stealthily along the walls, the curb splattered with blood, the sharp odor of burning, this is the atmosphere of that city of death where, before the fearful 22d of July, close to 370,000 Jews 'lived' in the shadow of 16 kilometers of wall enclosing the ghetto."

Listen, listen to their voices "I have no words with which to picture the life of the ghetto during those days. All of us looked upon ourselves as living corpses, as ghosts who no longer belonged to this world. Our every thought and every word was about death. Death seemed to be the only way to escape from the indescribable hell in which we lived."

Tragically, the story of the Jews of Europe, and especially the Jews of Poland, the largest Jewish community on the continent, was exactly that, a story of death at the hands of the Nazis and their collaborations during the war.

But even amidst the killing fields, there were a few, oh so few, rays of sunshine, one of them, the man we honor this evening, was Jan Karski.

It is asked "if a tree falls in the forest and no one hears it, does it make a sound?" Similarly, one can ask: "If humanity cries out in anguish and no one listens, does the pain go unfelt?"

Cry out Polish Jews did. Listen to the words of the great Yiddish poet, Hay Leivick, whose daughter-in-law, Ida, is here this evening:

"Unzer Folk vert oisgekoilet, un di velt kukt zich knit um, tsu dem vay foon unzeren koyless, di gantseh velt bleibt shtoom." "Our people are being slaughtered, and the whole world pretends not to know. The whole world remains silent to our cries of woe."

Jan Karski devoted his life, indeed risked his life, so that these cries of woe of Polish Jews during World War II would not go unheard. This courier of courage took to the world community his eyewitness accounts of the systematic extermination of the Jews by the Nazis. Many found his stories of gruesome atrocities hard, even impossible, to believe, but Jan Karski told them and retold them to anyone who would listen.

Jan Karski modestly refers to himself as a "human tape recorder," replaying the messages he was asked to deliver. In actuality, he has been a trumpet; a man who has heralded the harsh tones of human indifference and cruelty so loudly, that no one can deny hearing them, while at the same time personifying the softest melodies that make up the indomitable spirit and inherent goodness that mankind can still possess.

Jan Karski, a Catholic, was born in Lodz, Poland, in 1914. In 1939 he was drafted into the Polish army as a second lieutenant. Taken prisoner by the Soviets, he managed to escape and join the Polish underground.

In December 1939, he was sent, as one of the first couriers, to France, where he briefed the new Polish Government-in-exile about the situation in occupied Poland. A few months later, he returned to Poland only to be sent to France again. But this time his mission failed, and he was arrested by the Gestapo in Slovakia. He was tortured but did not betray any secrets. Rescued in a daring action by the Polish underground, he returned to his vital work. He came into contact with leaders of the Polish Jewish underground. They wanted him to see with his own eyes and thus bear witness to the tragedy befalling the Jews. He agreed. He was secretly able to enter the Warsaw ghetto twice. He was also able to enter the extermination camp at Belzec. His eyes saw it all.

Shortly thereafter, he was charged with a mission to London to report to the Polish Government. Part of that report was to be an account of the attempt to exterminate the entire Jewish people.

From England he went to the United States where, in August 1943, he personally reported to President Roosevelt, Cordell Hull, Henry Stimson, Justice Felix Frankfurter and other senior U.S. officials and leaders of the American Jewish community that which he had witnessed.

Many years after the war's end, Karski, who had since become an American citizen and a distinguished professor of international relations at Georgetown University, was asked if his mission to inform the world and seek help for the beleaguered Jews had had any results. he replied:

"As to the Jewish part of my mission, it was an obvious failure. Six million Jews died and no one offered them effective help. Not any nation, not any government, not any church. The help they did receive, heroic help, was provided only by individuals."

Jan Karski was one such individual. As Martin Peretz, writing in the current issue of the New Republic of his own participation in the recent 50th anniversary commemoration in Warsaw of the ghetto uprising, said:

"When Polish President Lech Walesa spoke and mentioned that Karski was in our midst, the crowd's sudden hush indicated that the people knew they were in the presence of one of those obsessives whose obsessions make him both brave and good."

It is precisely for these obsessions, this remarkable courage, this lifelong commitment to combating evil, this friendship to the Jewish people that was so manifest in our darkest days and continues to the present time in the relentless determination to fight antisemitism, to promote dialogue and understanding between his fellow Poles and Jews, and to bear witness, all the more necessary at a time when an AJC-commissioned poll shockingly shows more than 1/3 of the American people either prepared to deny the reality of the holocaust or unsure whether it even took place, it is for these extraordinary qualities that the American Jewish committee is deeply honored to confer its very highest award on a true hero of our time, Jan Karski.

ACCEPTANCE SPEECH OF JAN KARSKI

Thank you for your goodness, generosity, and a precious gift—The American Liberties Medallion.

I am old and no longer strong so the only way I can express my gratitude is to offer some of my war recollections which, I hope, will help you to remember what became known as the Holocaust.

Remember that what happened to the Jews during World War II was unique and incomparable. As Elie Wiesel puts it, "All nations under the Nazi domination had victims—millions of them—but all Jews were victims." Let no nation, no government, no church appropriate this sacred, this cursed term "Holocaust is Jewish."

The Jews were totally helpless. They had no country of their own, no government, no representatives in the Allied War Councils. For help, they had to rely on others. And those others were sympathetic or unsympathetic.

The Western Allies knew what was happening to the Jews. But in their way strategy the Jewish Gehenna never meant more than a painful, or embarrassing but still a side issue.

Keep also in mind my role. During the war I was a nobody. A messenger, a tape recorder. My role was to report and to answer questions if I knew the answers. Because I never exceeded the role—four times I was sent on secret missions across the Nazi-dominated Europe.

In October 1942, the Jewish underground leaders picked me up in Warsaw, as their messenger—just because I was on hand. They didn't have much luck with me. I was too little, too insignificant for the enormity of that mission.

In February 1943, I reported to Lord Selbourne—a powerful man. He supervised all underground resistance in Europe. The Jews asked for hard currency to enable some of them to leave Poland. Gestapo was corrupted. So were many from the Auswärtiges Aznt. They would let those Jews go—for money. "Impossible. What our people would say once they learn that we were subsidizing Hitler?" he answered.

He praised me though and encouraged me to inform as many influential people as possible. But he also told me—casually—that during the First World War rumors spread in Europe that German soldiers were crushing Belgian babies' skulls against the walls—just for fun. "We knew that those rumors were not true. But we did nothing to deny them. They were good for the morale of our people," he said. I didn't ask him "Your Lordship, why did you tell me that little story?"

About that time I also reported to Lord Cranborne, a member of the War Cabinet. He seemed to be a good man—sensitive and compassionate. After my report he said: "Mr. Karski, you are an intelligent man. You realize that you brought us impossible messages. So now, tell me what do you think we could do?" And I answered: "Your Lordship, I don't know."

Many European underground resistance organizations considered as a part of the Allied Armed Forces were receiving help. The Jews had a reputation of no-fighters. There were thousands of Jews who were members of those organizations in Poland, Belgium, Holland, France. However, they concealed their Jewish identities to avoid double jeopardy. But all the time I was unaware of that. My immediate superior in the Polish Home Army, Jerzy Makowiecki, was of Jewish stock. But that I learned only after the war.

"Mr. Karski, a man like me talking to a man like you must be totally frank. So I say, I am unable to believe what you told me," said Justice Frankfurter after I described what I saw happening to the Jews.

"What are the reasons that in every country where the Jews reside sooner or later anti-Semitism emerges?" wondered H.G. Wells, the world-famous science fiction writer.

But in London and, later, in Washington, I also met people from the lower echelons of power. With them I did discuss and they did seek my opinion.

The Jews asked the Allies to flood Germany with leaflets telling the population what their government was doing and asking for pressure on their government to stop the destruction of the Jews.

"Our pilots are of many nationalities. They fight to liberate all nations of Europe. They risk their lives to drop bombs not leaflets"—was the answer of the psychological warfare officials in London.

The Jews asked for a public declaration by the Allied leadership that stopping destruction of the Jews became a part of the Allied war strategy.

"Counter-productive"—was the answer in London—"Such a declaration would generate resentment of other nations, of the Dutch, Belgians, and French. Why only the Jews? Can you assure us, Karski, that your own people would not resent it? They also suffer."

Some Jews who could escape needed assurance that they would find a haven in the Allied countries. They would need visas.

"This country is ruled by law. The Congress established national quotas. We cannot issue visas to people whose names and national origins are unknown"—was the answer in the Department of State in Washington.

As for President Roosevelt—in 1981, John Pehle, the first director of the American Refugee Board said at a press conference: "Karski's mission shocked the President. Karski changed American policy from passivity to an affirmative action overnight." Was Pehle's statement true or was it an act of courtesy? I don't know.

Fifty years ago the European Jews were helpless, abandoned and doomed. "Is another Holocaust possible?" ask me sometimes my Jewish students. No. "Is it because humanity changed?" No. Humanity did not change. We know what happened in Cambodia, or Ethiopia, or Somalia. We know what is happening in Bosnia. But Holocaust? Never. How come? Because today, there is Israel.

PUBLIC LAND CORPS ACT OF 1993

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. VENTO. Mr. Speaker, I am pleased to join with Chairman George Miller of the Natural Resources Committee in introducing legislation to expand the opportunities for youth conservation service on America's national parks, forests, wildlife refugees, and other public lands.

One third of our Nation is Federal or Indian lands. Our parks, forests, wildlife refuges, historic sites, and Indian reservations are experiencing overuse, inadequate maintenance, and deteriorating infrastructure. The Public Land Corps Act would help address these unmet environmental and conservation needs while giving young people job skills, an appreciation of our natural and cultural heritage, and the opportunity to pay back college loans or get job training through the national service initiative proposed by President Clinton.

I would like to commend President Clinton and Office of National Service Director Eli Segal for their vision and hard work in shaping the National Service Trust Act. In the spirit of

the GI bill and the Peace Corps, national service calls on Americans to meet their obligations to society in return for assistance in furthering educational goals. The national service initiative is both an outgrowth and a symbol of the rekindled spirit of citizenship and service to the community, and I look forward to its swift enactment by Congress.

The Public Land Corps Act builds on a long and proud tradition of conservation service on Federal lands dating back to President Franklin D. Roosevelt's Civilian Conservation Corps. The CCC enlisted 3 million young Americans in a peacetime army to plant trees, fight fires, maintain trails, and build shelters in parks and forests across the United States. More recently, the Youth Conservation Corps in the Departments of the Interior and Agriculture have provided hundreds of thousands of young people with skills and experience while accomplishing valuable conservation work worth $1.50 for every $1 spent.

While the Public Land Corps Act has its roots in this rich tradition of conservation service, it also embodies the most contemporary thinking about national service. All of the provisions regarding length of service, educational benefits, matching funds, and nondisplacement of the National Service Trust Act would apply to the Public Land Corps. Like the National Service Trust Act, the Public Land Corps bill employs a nonbureaucratic partnership approach in terms of its organization and administration.

The purpose of the legislation is to give greater authority and flexibility for the Secretaries of the Interior and Agriculture to both participate in the National Service Program and to increase conservation service opportunities on Federal lands outside of the confines of the National Service Program. There is a demand for conservation service opportunities. A recent public opinion survey by the Roper organization found that 6 out of every 10 Americans would like to volunteer in some sort of environmental protection activity. Existing conservation corps often have to turn away hundreds of participants because of a lack of funds.

The bill establishes a year-round Public Land Corps for 16-to 25-year-olds. Participants would carry out conservation, restoration, and rehabilitation projects on Federal and Indian lands such as tree planting, firefighting, trail construction, erosion control, and historic preservation. There clearly is need for this kind of work. A Congressional Research Service report concluded that there was over 900,000 years of labor intensive backlog work which could be done by the Conservation Corps in the Departments of the Interior and Agriculture. These are not make work projects, nor are they projects which put existing employees out of work. They are projects which need to be done but which never will be done unless there is a new infusion of labor.

This authority to establish the Public Land Corps is necessary because the current Youth Conservation Corps is only a summer program open to 15- to 18-year-olds and the President's National Service Program is for people 17 and above and is a year-round program. If the National Service Program is enacted, the Secretaries of the Interior and Agriculture could compete with other Federal and nonprofit agencies for funding and positions from the National Service Trust Program. Common sense dictates that a federally funded national service effort should allow for some portion of the national service effort should allow for some portion of the national service work performed to be of benefit to Federal lands which are managed on behalf of present and future generations of Americans. However, the Public Land Corps could also exist outside the confines of the National Service Trust Program.

The bill also encourages the development of contracts and cooperative agreements between Federal agencies and existing State, local, and nonprofit youth and conservation corps to carry out projects on Federal lands. This provision would provide service opportunities to many young people who may not be participating in the full-fledged National Service Program. The past decade has seen an explosion of new State and local conservation corps. Currently, some 25,000 young people are enrolled in 75 youth service programs in 27 different States, and this number continues to grow. These State and local conservation corps provide direct assistance and opportunities for economically disadvantaged populations. Many of these conservation corps are located near Federal lands and would greatly benefit from increased opportunities to carry out projects on Federal lands. Our bill requires the State, local, or nonprofit organization to provide a 25 percent match in the form of funds or services for the cooperative agreements authorized under the act.

The Public Land Corps Act has a long legislative history dating back to the early 1980's, when then Congressman John Seiberling introduced legislation to establish the American Conservation Corps. This legislation had strong bipartisan support in Congress but was vetoed by President Reagan in 1984. Modified versions of this legislation were considered in subsequent sessions of Congress and a small portion of the ACC legislation was included in the 1990 National and Community Service Act. While the 1990 legislation went a long way towards furthering civic responsibility and assisting in the development of State and local conservation corps, the bill did not include a direct role for the Federal lands or the Federal land managing agencies in conservation service programs. This omission in an otherwise fine law would be rectified by the passage of the Public Land Corps Act.

The Subcommittee on National Parks and Public Lands, which I chair, held a hearing on opportunities for conservation service on February 18, 1993. Witnesses from the National Park Service, the Fish and Wildlife Service, and the Forest Service indicated their support for legislation which would give them greater flexibility in their youth programs by allowing older participants and year-round conservation service opportunities. The Public Land Corps Act was developed on the basis of recommendations presented in this hearing, past legislative efforts in this area, and consultation with Federal agencies, the National Association of Conservation and Service Corps, the Student Conservation Association, and other interested groups.

I urge my colleagues to support this worthwhile legislation which will meet important conservation and environmental needs of our national lands while providing meaningful experiences and benefits to our Nation's young.

NATIONAL DOWN'S SYNDROME AWARENESS MONTH LEGISLATION INTRODUCED

HON. ELEANOR HOLMES NORTON

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Ms. NORTON. Mr. Speaker, today, I am pleased to introduce along with my colleague, Congressman ARTHUR RAVENEL, a joint resolution to recognize the months of October 1993 and 1994 as National Down's Syndrome Awareness Month.

Each year approximately 5,000 children are born with Down's syndrome in the United States. Not long ago many children with Down's syndrome suffered needlessly because of ignorance, prejudice, stereotypes, and myths about Down's syndrome and consequently were faced with formidable obstacles to developing their full potential. Children with Down's syndrome now face a much brighter future because of extraordinary efforts made by individuals and organizations concerned about the challenges faced by children with Down's syndrome. Katherine Felicia Norton, my daughter, who has Down's syndrome and lives with me, is a wonderful person, and the enlightened and caring services available here in the District of Columbia deserve some of the credit.

The National Down's Syndrome Society has been instrumental in improving the lives of citizens with Down's syndrome by encouraging communities to embrace their participation in such activities as attending regular schools, playing on little league teams, and volunteering in their communities. The society has also helped establish vocational training programs to prepare young adults with Down's syndrome to enter the work force and to live independently. These programs provide assistance to individuals with Down's syndrome in order that they may lead fuller lives.

By offering this joint resolution, Congressman RAVENEL and I hope to bring national attention to the efforts to improve the lives of people with Down's syndrome and to accent the need for continued advancements. We seek the support of all our colleagues to ensure quick passage of this joint resolution.

A TRIBUTE TO BOB BALDWIN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of Bob Baldwin of Redlands, CA. Bob will be recognized at a dinner in his honor on June 10 for his many years of commitment and support to our community by the California Inland Empire Council of the Boy Scouts of America.

Bob was born and raised in Connecticut and, after receiving his bachelors degree in English and education from the University of Connecticut, went on to complete his MA at American University. Over the years, Bob has made a tremendous commitment serving our country spending 35 years in the military beginning with the Army, 1946–47, Connecticut National Guard, 1948–51, and the U.S. Air Force, 1951–81. During this time, he served at a number of bases in the United States, Greenland, Canada, the Philippines and Germany.

During his distinguished career, Bob has served as a military aide to U.S. Senator Barry Goldwater, 1965, and as the Director of Personnel and Deputy Base Commander at Clark Air Force Base in the Philippines, 1972–74. He has also served as the Chief of the Office of the Air Force Inspector General, 1974–77, and as the Director of Personnel and Deputy Base Commander, 1977–81 at Norton Air Force Base in California. Most recently, Bob completed his service as the executive director of the United Way of Redlands where he worked tirelessly to develop programs to serve the disadvantaged citizens of our community.

Bob's involvement in community and public affairs is well known. He is the past president of the Redlands Rotary Club, a member of the Redlands Fortnight Club, and a member of the Board of Directors of the Carriage Club of the San Bernardino Civic Light Opera.

Bob is also a past member of the board of directors of the Redlands Community Music Association, past member of the Redlands Chamber of Commerce Board of Directors, and a member and chairman of the chamber's leadership Redlands program. In addition, he is a former Webelo den leader and vice-chairman of the Far East District of the Boy Scouts of America.

Mr. Speaker, I ask that you join me, our colleagues, and friends in recognizing the fine contributions of Bob Baldwin. This award by the California Inland Empire Council of the Boy Scouts of America is appropriate for a man who has given so much of himself to others over the years. It is fitting that the House of Representatives honor him today.

INTRODUCTION OF LEGISLATION REGARDING UNDERAGE DRINKING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. GOODLING. Mr. Speaker, today I am introducing legislation which encourages States to enact comprehensive laws to prohibit any person less than 21 years of age from drinking alcohol.

Underage drinking is a major problem that has plagued our society for many, many years. Studies confirm that alcohol use and abuse is rampant in our Nation's schools and on college campuses. Far too many students who use alcohol jeopardize their health and safety and pose a dangerous threat to the safety and well-being of others.

A study recently conducted by researchers from the Southern Illinois University at Carbondale and the College of William and Mary entitled, "Alcohol and Drugs on American College Campuses: Use, Consequences, and Perceptions of the Campus Environment," examined the frequency of alcohol use on college campuses and the differences between the effects of alcohol on underage drinkers and legal drinkers. One finding showed that underage drinkers at colleges across the country consume more alcohol than legal age drinkers and experience significantly more negative effects as a result of drinking. Compared to older students, underage drinkers reported twice as many physical injuries, trouble with authorities, campus crime, and sexual misconduct as a result of alcohol use. They also suffered more hangovers, nausea, vomiting, memory loss, and impaired academic performance. Similar studies have found that by eighth-grade or 13 years of age, 70 percent of youngsters have tried alcohol and 27 percent have been intoxicated.

We certainly have reason to be alarmed at other key findings which were made in this study. For example, while one-third of students who participated in the study reported they had driven under the influence, only 1.7 percent were arrested.

The knowledge derived from this report confirms that we as policymakers, are correct in addressing the serious effects of drug and alcohol abuse in our Nation. Furthermore, our efforts on the Federal level, through legislation such as the Drug Free Schools and Community Act, the Campus Crime and Security Act, and the Higher Education Act, are in the right direction. Interestingly, those institutions which provide drug and alcohol use prevention and counseling programs for students have shown a slight decrease in reported use. However, one of every six students from 2 year institutions reported drinking three or more times per week as compared with one of every four students from 4 year institutions.

Mr. Speaker, I believe these statistics demonstrate the need for involvement by Federal, State, and local governments, and communities to ensure that those under age 21 do not have access to alcohol. In March, the National Transportation Safety Board [NTSB] released safety recommendations and suggested policy and legislative approaches to reduce the availability of alcohol to those under 21 years of age. In 1984, Congress passed the National Minimum Drinking Age Act, which resulted in laws in all 50 States and the District of Columbia prohibiting the sale of alcohol to any person less than 21 years of age. However, many States still have no laws prohibiting a person less than 21 years of age from purchasing alcohol or from attempting to purchase alcohol. In addition, some States do not prohibit those under age 21 from consuming alcohol, from possessing alcohol, from misrepresenting his or her age to purchase alcohol, or from presenting a false identification to purchase alcohol. Because so many of these loopholes exist in State law, it is quite easy for a young person to drink.

Mr. Speaker, my resolution expresses the sense of the Congress that the States and the District of Columbia should enact comprehensive laws to prohibit any person who is less than 21 years of age from purchasing alcohol, attempting to purchase alcohol, possessing alcohol in public, consuming alcohol in public, misrepresenting his or her age to purchase alcohol, and using false identification to purchase alcohol.

High school graduations and proms are underway, making this one of the most exciting times in young people's lives. As they begin to enjoy the freedom of adulthood, all too often they forget that with adult privileges come adult responsibilities. As Memorial Day holiday is approaching, marking the beginning of summer, the season when many young adults are involved in tragic alcohol-related accidents. This resolution will show our support for the efforts to bring underage drinking, and all the negative consequences that occur as a result, to a halt. I would ask by colleagues for their support.

FRANCIS J. "DUDE" LUZZI: GOLDEN DEEDS AWARD RECIPIENT, BRADFORD, PA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. CLINGER. Mr. Speaker, I rise today to congratulate Mr. Francis J. "Dude" Luzzi on receiving the Golden Deeds award in Bradford, PA. The award, which is sponsored by the Bradford Exchange Club, is presented annually to an individual who has contributed generously and selflessly to the community.

For 26 years, "Dude" has dedicated himself to the advancement of the Bradford Little League. He served as president from 1973 until 1991, and also shared his talents through coaching. From season to season, he always remembered that Little League is for the kids. Without exception, he put them first, looking out for them and working with them both on the field and off. He realized that the bench was no place for a young person to spend a summer, and made America's game a pleasant childhood memory for Bradford's Little Leaguers.

Having also been honored as "Man of the Year" of District 10 and presented with an honorary key to Callahan Park in Bradford just prior to his resignation as president of the League, the Golden Deeds award is yet another example of the tremendous amount of respect that his neighbors have for him. The wide-spread sentiment among Bradford's residents is that Frank Luzzi is an outstanding choice for this award, and I am please to have this opportunity to join with them in thanking him for his generosity and dedication.

Mr. Speaker, Francis Luzzi is an excellent selection for this prestigious award. He will be honored at the 41st Annual Golden Deeds Award Dinner on June 9, and I offer him my best wishes for a memorable evening.

SAVING THE AMERICAN SHOE INDUSTRY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Ms. SNOWE. Mr. Speaker, today I am introducing legislation to help many Americans keep their jobs. This legislation seeks to overturn a costly mistake made several years ago which dealt the U.S. shoe industry a terrible blow.

During the conference on the Customs and Trade Act of 1990, the conferees agreed to insert into the conference report a provision, section 222, which amended the Caribbean Basin Initiative regarding shoes and other leather-related goods. Enacted in 1983, the Caribbean Basin Initiative [CBI] sought to encourage economic development in the Caribbean region by providing businesses there with favorable duty treatment for their exports to the United States. In its consideration of this measure, however, the Congress wisely excluded certain U.S. industries from the CBI due to their extreme import sensitivity. One of these industries was the shoe industry. But in 1990, while working on the conference report for the Customs and Trade Act, the conferees inexplicably decided to reverse this exemption for footwear and leather-related goods, and inserted language providing duty-free treatment for shoe imports from the Caribbean as long as those shoes are made from materials manufactured in the United States.

The results of this change were tragic, but predictable. Rubber footwear imports to the United States from the Dominican Republic alone increased in volume from 566,000 pairs in 1991 to nearly 3 million pairs in 1992, a 421-percent increase. The value of these imports increased from $699,000 to more than $7 million, a boost of 925 percent. Overall, footwear imports from the Caribbean increased from 2.5 million pairs in 1990 to 6.6 million pairs in 1992. And these imports came at the expense of domestic shoe jobs. In the nonrubber footwear industry alone, 28 U.S. plants closed in 1991; another 10 plants closed in 1992.

My bill would remedy this grievous error, and in so doing would help keep Americans employed in the current fragile economy. It would simply reinstate the pre-1990 status quo, restoring duties to imports of shoes and other leather-related goods from the Caribbean. My bill is similar to H.R. 795, a bill introduced earlier this year by the gentleman from North Carolina, Mr. ROSE. The only difference between the two bills is that H.R. 795 would grandfather in a certain quota of duty-free imports from Caribbean manufacturers who exported qualified shoes to the United States between January 1, 1992, and October 1, 1992. I prefer a stronger approach. My bill would restore the pre-1990 status quo with no qualifications. Duties would be imposed on shoe imports from the Caribbean, as the original CBI had intended.

I do not oppose economic development in the Caribbean basin. I understand that many areas in the Caribbean region face severe poverty. But the answer to the problem of poverty in the Caribbean is not to transfer American jobs there, causing economic dislocation in our own country.

My home State of Maine once had a thriving shoe industry which employed many thousands of people. But over the past decade, our shoe industry has been devastated by imports produced with the cheapest of labor. In fact, since 1980, 30 plants have closed in Maine and 7,000 workers have lost their jobs. We should not hand the remaining employees in the domestic shoe industry in Maine and other States a pink slip by continuing to ignore the severe impact of section 222 of Customs and Trade Act of 1990.

I urge my colleagues to join me in cosponsoring this legislation so that we can help keep Americans working.

OPPOSITION TO SENATE JOINT RESOLUTION 45

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. BEREUTER. Mr. Speaker, on May 25, 1993, this Member voted against Senate Joint Resolution 45, the resolution authorizing the use of United States Armed Forces in Somalia. When President George Bush sent United States Armed Forces to Somalia last December, it was explicitly stated that they were sent to assure that food and other humanitarian relief could be delivered by the various governments, international organizations, and private voluntary organizations to the suffering people of Somalia. However, it was equally clear that they were not sent as a peacekeeping force or to disarm the warring factions except as was necessary to perform their primary mission. While this Member fully supported President Bush's decisions, as did the great majority of the American people, this Member and other Americans constantly spoke against an expansion of that limited American mission as advocated immediately by the clamor of voices from various parts of the national media elite, various Members of Congress, and the other would-be opinion leaders.

This body needs to look beyond the current crisis in Somalia, and look at the broader implications that Senate Joint Resolution 45 will have for United States participation in collective security actions. In the post-cold war era, the United Nations has undertaken a wide range of new peacekeeping operations, and it is clear that U.N. Secretary General Boutros-Ghali intends to continue this expansion of activity. This is a healthy and much-needed evolution of U.N. behavior, and this Member supports the trend toward greater U.N. responsibility for international peacekeeping. At the same time, however, this Member is very much aware that new collective security operations must be undertaken with extraordinary care, lest they fail for lack of public support.

The only way the United States can realistically participate in these new peacekeeping operations is if they have the full support of the American people. But we will never build public support if troops are dispatched for indeterminate periods, or if the mission of U.S. deployed units continues to change. Thus, the United States must be very careful about how it proceeds with U.N. peacekeeping actions. We can build support for U.N. peacekeeping and U.S. participation in those operations if we act responsibly. But if we fail to act prudently, public support will disappear. This Member would suggest that the American people will neither understand nor support the long-term deployment of United States Armed Forces in Somalia that is authorized in Senate Joint Resolution 45.

Mr. Speaker, the Clinton administration has acted to increase the role of American Armed Forces to serve as part of a multilateral peacekeeping force under U.N. initiatives and the Congress is endorsing this additional mission for our forces under Senate Joint Resolution 45. This is a mistake, and quite possibly a tragic mistake in terms of American lives which will be lost. There is little prospect that peace can be kept or enforced in the long term and little likelihood that a system of civil government can be recreated in a number of years which will be adequate to return law and order, peace, and even a modicum of economic stability in Somalia. Americans will probably regret the fact that the Clinton administration has enlarged the mission of our Armed Forces in Somalia in what is likely to be both a long-term commitment and tactically indefensible conditions. Accordingly, this Member opposes this extended and expanded role for our Armed Forces.

MEDICAL EQUIPMENT PAYMENT REFORM

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. KREIDLER. Mr. Speaker, yesterday I introduced H.R. 2275, a bill to correct a problem in Medicare payment for medical equipment. I am grateful to Garry Preston, a constituent who brought this problem to my attention.

Medicare payment rules for durable medical equipment, from wheelchairs to oxygen tents to prosthetics, and a host of other items, are among the most complex features of the program. When a physician determines that a Medicare patient needs to use a piece of equipment, the program is supposed to pay for the equipment in the most cost-effective manner that will meet the patient's individual needs. Unfortunately, current law sometimes makes that impossible.

Some kinds of equipment can be obtained either by rental or by purchase, and which method of payment to use depends on the item and how long the patient will need it. Generally, renting makes more sense for short-term use, while buying is better over the long run. But some types of equipment require such frequent maintenance and servicing, in order to prevent malfunctions that can endanger patients' health, that they should be rented rather than purchased, even for long-term use. It is both expensive and potentially dangerous to buy an item that may have to be replaced, or require frequent servicing, over its useful life.

That is why Congress has required such equipment to be rented, even on a long-term basis. In 1990, Medicare spent $101 million to rent items like ventilators, aspirators, internal positive pressure breathing IPPB machines, and nebulizers, which current law—section 1834(a)(3)(A) of the Social Security Act—specifically requires Medicare to rent rather than purchase. After examining the reliability of the most common items in this category, the Health Care Financing Administration recommended removing aspirators and nebulizers from the rental category so that patients could purchase them with Medicare funds in appropriate cases. The budget reconciliation bill now before Congress exempts these types of devices.

My constituent, Mr. Garry Preston of Olympia, WA, uses a continuous positive airway pressure [CPAP] device, which HCFA classifies as a ventilator. This device is coming into more widespread use as health care technology improves, and it may be reliable enough to be purchased rather than rented. Since Mr. Preston expects to need the CPAP for an indefinite period, and since the rental payments increase both his costs and Medicare's, he asked me why Medicare should not pay for the purchase of the device.

The bill I have introduced, H.R. 2275, would amend section 1834(a)(3)(A) of the Social Security Act, to remove the requirement that all ventilators, aspirators, nebulizers, and IPPB machines be rented. The bill would still require rental of items that need frequent servicing to protect patients' health or safety, but would give the Secretary of Health and Human Services discretion to determine which items fall into that category. It would not change the amounts of rent or purchase price that Medicare would pay.

Rather than making piecemeal changes in the list of required-rental equipment, Congress should give the Medicare Program authority to control costs, recognize technological improvements, and serve patient needs through either rental or purchase of medical equipment.

I urge the support of my colleagues for this legislation.

H.R. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF VENTILATORS AND ASPIRATORS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(3)(A) of the Social Security Act (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "(such as ventilators, aspirators, IPPB machines, and nebulizers)" and inserting "(as determined by the Secretary)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1994.

THE 50TH WEDDING ANNIVERSARY OF HERMAN AND FRANCES GALLMAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues the 50th wedding anniversary of two wonderful people. On March 22, 1993, Herman and Frances Gallman celebrated their golden anniversary.

Herman, from Boston, MA, and Frances, from Bayonne, NJ, met and married during World War II where Herman served as a first sergeant in the Combat Military Police in the Pacific region. As a result of a battlefield commission which he received when he joined the New Jersey National Guard in 1947, he retired with the rank of captain in 1976. Frances, through the years, has been a devoted helpmate, mother, and a respected member of her community. After 50 wonderful years of marriage, the Gallmans have four grown children: Marilyn, Leroy, Janette, and Sylvia; and three grandchildren: Troy, Wendell, and Alexis.

Mr. Speaker, it is my pleasure to pay tribute to Herman and Frances Gallman for being role models for all to see by their commitment to each other, their family, and community. I am sure my colleagues would like to join me as I wish them hearty congratulations.

MARKEY HONORS WAR HERO WITH POSTHUMOUS DEDICATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. MARKEY. Mr. Speaker, I rise today to introduce bipartisan legislation that honors Pfc. Frederick C. Murphy by rededicating the Federal Center in Waltham as the "Murphy Federal Center."

Pfc. Frederick Murphy is certainly deserving of this honor. A man of singular devotion to his country, who on March 18, 1945, on the Siegfried line in Saarlautern, Germany, sacrificed his life so that our Nation could continue to prosper.

As a young man, Private First Class Murphy answered his country's call to service by enlisting in the U.S. Army. He became an aid man in the "E" Company of the 259th Infantry of the 65th Infantry Division. Private First Class Murphy landed in the European theater in June of 1944 and served meritoriously until the time of his death in March of 1945.

According to his comrades, Private First Class Murphy was a man who exemplified courage and the dawn attack at the Siegfried line on March 18, 1945, provides the ultimate example of his patriotism. As he crossed the battlefield on that fateful day, Private First Class Murphy was struck by an enemy bullet. Refusing to withdraw from the battle, the young private continued to attend to his duties as a medic. He moved across the battlefield, under extremely heavy gunfire and in dire pain, yet continued to attend to those who were more seriously wounded. The field was strewn with mines and as he struggled forward he stepped on an antipersonnel mine. After the mine ripped his foot from his body, Private First Class Murphy did the unthinkable, he continued to assist other wounded soldiers. Pressing on despite heavy blood loss, Private First Class Murphy moved from man to man. When his strength finally gave, he shouted instructions to those who he could not reach. However, the cries of his fellow soldiers were too much to bear and he drew upon this indomitable courage and continued toward them. As he crawled forward he crossed another mine that ended his life. Pfc. Frederick C. Murphy was an American hero. His selfless desire to save the lives of fellow Americans cost him his own life.

I believe that this fallen hero deserves this tribute. By renaming the Federal property in Waltham the "Murphy Federal Center," I believe an appropriate tribute will be paid. I am asking my colleagues to join Representatives MOAKLEY, KENNEDY, FRANK, NEAL, STUDDS, OLVER, MEEHAN, TORKILDSEN, BLUTE, MONTGOMERY, and myself in showing their support for Pfc. Frederick Murphy, a man who I can truly call an American.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 380 Trapelo Road in Waltham, Massachusetts, and known as the Waltham Federal Center, shall be known and designated as the "Frederick C. Murphy Federal Center".

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Frederick C. Murphy Federal Center".

A SPECIAL SALUTE TO 11TH DISTRICT PARTICIPANTS IN "ARTISTIC DISCOVERY" COMPETITION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. STOKES. Mr. Speaker, I rise today to salute high school students from my congressional district who recently participated in the annual "Artistic Discovery" regional art competition. As you are aware, this outstanding program, sponsored in conjunction with the Congressional Arts Caucus, allows Members of this body to recognize the artistic talents of high school students from around the country.

For the past 12 years, I have sponsored "An Artistic Discovery" contest for high school students in my congressional district. I am proud to report that this year's competition was a great success, attracting over 300 entries from 14 high schools located within the 11th District.

Mr. Speaker, the 11th Congressional District takes great pride in celebrating the artistic endeavors of our young students. The "Artistic Discovery" competition, which was held from January through mid-April, culminated with a special reception and awards ceremony held at the Cleveland Heights City Hall on April 24, 1993. Prior to the awards ceremony, the district marked a week-long "Salute to Young Artists" with student artwork on display at the city hall chambers.

Mr. Speaker, there are numerous individuals and organizations who should be acknowledged at this time. I take this opportunity to

express my appreciation to Cleveland Heights mayor, Carol A. Edwards, and her outstanding staff, for their support of this important effort. I also want to thank Tim Myrick who served as our 1993 Artistic Discovery judge, and Ernestine and Malcolm Brown for their continued support. In the 11th District, we are also appreciative of the support from community businesses and organizations. I acknowledge the support and scholarships provided by the Cleveland Museum of Art and First National Supermarkets, Inc.

Mr. Speaker, on Tuesday, June 29, 1993, student artwork from around the country will adorn the corridors of the Capitol building as the national "Artistic Discovery" exhibition officially opens. I am especially pleased to note that winning artwork from my congressional district will be included in this special exhibit. I congratulate Natalie Campbell, an 11th grade student from Shaker Heights High School, for her winning artwork. I look forward to welcoming Natalie to Washington to witness the official hanging of her very beautiful acrylic painting, entitled "Marketplace."

Mr. Speaker, all the 11th District students who participated in this year's "Artistic Discovery" competition are indeed winners. I am proud of their artistic talents and I wish each of them much continued success.

1993 ARTISTIC DISCOVERY COMPETITION PARTICIPANTS

Beaumont School: Alyssa Adams, Catherine Bammel, Jennifer Blum, Molly Burke, Accalia Calabrese, Catherine Cavanaugh, Katie Conkey, Nicole D'Alessandro, Stephanie Darrah, Katie Entsminger, Jessica Eppich, Amy Fistek, Katherine Fitzgerald, Megan Fitzpatrick, Sarah Fitzsimons, Erin Gerling, Heather Hartman, Beth Havach, Lori Indriolo, Keisha Jones, Karolyn Kohut, Margaret Lann, Karen Leach, Kara Lock, Josephine Lombardi, Susan Lutjen, Claire Madden, Brandyn-Marie Manocchio, Sarah McCormack, Ann McKeever, Bridgette Meridith, Megan Moore, Nicole Patitucci, Sherry Petersen, Marisa Posch, Jennifer Price, Pamela Pritchard, Nicole Prospal, Eileen Ryan, Maura Schmidt, Anna Sivak, Kate Sopko, Therese Strauchon, Paola Tartakoff, Ann Tinker, Jennifer Trausch, Christa Trunzo, Ameliah Vlah, Aimee Wendzicki, Elizabeth Wiemels, Allison Wooley. Art Teachers: Ellen Carreras, Sister Lucia, O.S.U.

Bedford High School: Robby-Baker, Kwai-Chang Coleman, Damon Hart, James Hodges, Amber Jackson, Stacie Jennings, Brandon Malott, Joe Mestnik, Becki Pelletier, Timothy Prade, Brad Visker, Darwin Woods. Art Teachers: Robert Bush, Dagmar Clements, Andrew Rabatin.

Bellefaire School: Lori Brand, David Patterson, Philip Ploeser, Lucie Read, Andy Whewell. Art Teacher: Karen Mehling.

Cleveland School of the Arts: Robert Adams, Angela Bell, Tanya Gonzalez, Brian Johnson, Lawrence Kendrick, Vila Lloyd, Mai Ly, Ja'Nitta Marbury, Madeleine Peck, David Stefanec. Art Teacher: Andrew Hamlett.

Collinwood High School: Kenrick Bachelor, Claude Bates, Michael Canady, Daya Wright. Art Teacher: Jerry Dunnigan.

East High School: Eduardo Colon, Raymond Dykes, Joe Gonazalez, Michael Hardwick, Lashaun Harris, Rashon Linson, C. Vanessa Nieves, Saroya Philpots, Desmond Wilson. Art Teacher: Jaunace Watkins.

Garfield Heights High School: Heather Bogocki, Lisa Chizek, Tina Cowley, Erik Drotleff, Shawn Hafner, Larry Hamer, Kevin Hantak, Katie Kopinsky, John Lipnos, Valerie Lubinski, Carrie Markosky, Lisa Miljour. Art Teacher: Christine French.

John Hay High School: Sheldon Blevins, Rashawn Boyer, Damien Dix, Willinda Evans, Tesha Ferry, Maria Galarza, Tracy McKim, Dawn Mitchell, Tiffany Powell, Marquis Smith, Jermelle Thomas, Larina Walker, Paul Walker, Robert Whittingham, Demetrius Williams. Art Teachers: Harriet Goldner, Kathleen Yates, Richard Chappini.

John Marshall High School: Demond Powell, Lawrence Vickerstaff, Judith Wheeler. Art Teachers: Mr. Daiuto, Gregory Cross.

Lutheran East High School: Robert Bradley, Kacey Edwards, Dwayne Ford, Amber Griggs, Jabari Holmes, Eric Jones, Sherron Kinney, Karla Lester, Charmaine McAbrew, Matthew Pokorny, Donika Rose, Alston Spain. Art Teacher: Patricia Sears.

Shaker Heights High School: Natalie Campbell, Emily Dakin, Matt Dowling, Iris Even, I. Huei Go, Jordin Guinn, Patrick Jameson, Kristen Lamanna, Tamara Rothenberg, Kaytee Schmidt, Karen Schwartz, Clay Weiner, Martin Woyczynski. Art Teachers: Malcolm Brown, James Hoffman, Jenny Russell, Susan Weiner.

Shaw High School: Andrew Bulgin, Richard Carr, Seretta Clark, Paul Davis, Alex Franklin, LePriest Goss, Lamar Hicks, Terrence Hunter, John Martin, Mary Owens, Chris Perry, Tiffany Phillips, Rayshawn Robinson, Mario Smith, Alicia Stephens, Ernest Switzer, Chris Young. Art Teachers: Susan Lokar, Rena Reynolds.

South High School: David Behrens, Antoinette Black, Sierra Coleman, Raymond Friston III, Bridget Fortson, Greg Golembiski, Rolando Johnson, Khaleel Khaafidh, Antwon Mennefield, James Moore, Sir Scott, Jeremy Urbassik. Art Teacher: Roman Rakowsky.

Warrensville Heights High School: Kartika Comar, Aaron Foster, Iverson Jackson, Robert Norman, Kelly Reid, Christopher Richardson. Art Teacher: James Evans.

DENIAL OF VISA TO GERRY ADAMS UNDERMINES DEMOCRACY

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. KING. Mr. Speaker, President Clinton's recent decision to deny a visa to Gerry Adams, the president of Sinn Fein, the oldest political party in Ireland, was a blatant betrayal of a campaign pledge. I was present in New York City on April 5, 1992, when candidate Clinton assured Irish-American leaders that as President he would allow Mr. Adams to enter the United States. The President's decision to yield to State Department anglophiles victimizes not only Mr. Adams but, more importantly, the American people who will be denied the opportunity to hear directly from the head of one of the leading political parties in Ireland's occupied six counties.

Sinn Fein's political prowess and popular support were demonstrated once again in Northern Ireland's most recent local elections held on May 19 when Sinn Fein reinforced its position as the leading nationalist party on the Belfast City Council and increased its overall seat count in the six counties from 43 to 51. Sinn Fein's achievements are particularly noteworthy since its members are subjected to harassment and persecution by the British authorities and the loyalist paramilitaries. Indeed, during the past 20 years, 32 men and women active with Sinn Fein including 5 elected officials, have been assassinated.

To understand how misguided American policy is toward Sinn Fein and Gerry Adams, it is important that Sinn Fein be looked at in full historical context.

In 1918 the nationalist community in Ireland overwhelmingly—79 percent—supported and voted for the Sinn Fein political party and British withdrawal. This general election vote preceded the .pa establishment of the sectarian state of Northern Ireland which was set up by an act of an English Parliament 2 years later in December 1920. Sinn Fein was then made illegal in the north and in the early months and years of the loyalist regime hundreds of Sinn Fein supporters were murdered by the Royal Ulster Constabulary. After Britain's brutal crushing of the civil rights campaigns in the 1970's, nationalists demanded the right to vote and a political voice. Sinn Fein was again made legal in 1974.

Britain has always made Irish nationalists pay dearly in blood for democratic freedom. The campaign to silence the voice of the victims of partition never really ended. Now it was to accelerate. In January 1977, Michael McHugh, chairman of Sinn Fein in Castlederg, County Tyrone was assassinated. Brendan McLaughlin was killed in February 1980 in an attempt to assassinate Sinn Fein Concillor Joe Austin.

And 1981 brought the election of Bobby Sands to the British Parliament and the election of two other prisoners, Kieran Doherty and Kevin Agnew, to the Irish Dail. A Sinn Fein member in County Monaghan, Jeff McKenna, was killed on November 8, 1982. This was preceded by the killing of Peter Corrigan, a Sinn Fein election worker, on October 25, 1982. After the electoral successes of Sinn Fein in the October 1982 assembly elections, the British Army and the RUC started collecting and improving intelligence data on Sinn Fein activists with house raids, constant harassment, and the monitoring of their movements. A former British soldier, Brian Nelson, acted as the loyalist paramilitary liaison for the British Army and the RUC in coordinating data. In court in 1992 he admitted participating in attempts to kill Gerry Adams and Alex Maskey, elected Sinn Fein .pa officials.

Most of the murders of Sinn Fein officials remain unsolved despite taking place in areas heavily patrolled by British forces. Many of these areas like the Sinn Fein Advice Centre, on the Falls Road in Belfast are under constant visual and electronic surveillance. In a recent example, Sam Marshall, a Sinn Fein activist, was killed coming out of a RUC police station with two companions. A secret camera monitoring the house of one of those companions was discovered days later. The British officials make little effort to investigate these cases or prosecute those responsible for these types of killings. They know the evidence trail would too often lead back to them. Constable John Stalker, who led a British investigation into killings by the RUC, was dismissed precisely for that reason.

In August 1991, Sinn Fein, for the first time ever, won the North Belfast Council seat. Joe Austin's victory gave Sinn Fein nine seats in Belfast making it the leading nationalist party on the city council. No sooner had Austin won than the RUC arrested, beat, and inflicted burns on his son. This resulted in the first urgent action alert that Amnesty International has issued for Northern Ireland.

In the fall of 1992, Sheena Campbell of Sinn Fein was killed as she socialized with friends who were fellow students at Queens University. Just before Christmas, Malachy Carey, a Sinn Fein candidate, and Martin Lavery, the brother of Sinn Fein Councillor Bobby Lavery, were gunned down. On May 17, 1993, just 2 days prior to this year's local elections, a loyalist convoy opened automatic fire on a Sinn Fein Advice Centre, all under the watchful eye of British observation posts.

It must be noted that none of the Sinn Fein victims was involved in any illegal activity whatsoever and that each victim was unarmed.

For Sinn Fein to continually attain electoral successes in the face of such violence and oppression, it must have deep-rooted, popular support. While I disagree with Sinn Fein on a number of issues, the fact is that Sinn Fein is a legitimate voice for a large number of Irish nationalists and must be part of any negotiated settlement in Ireland. The essence of democracy is to encourage political involvement and public debate. By carrying out its policy of state terrorism against Sinn Fein, Britain is debasing the democratic process. By denying Gerry Adams entry to the United States, President Clinton is endorsing that disgraceful British policy.

Mr. Speaker, attached is a partial listing of Sinn Fein officials and workers who have been victimized for their political activities.

ASSASSINATIONS

Jim Murphy; April 24, 1974.
Paul Best, February 18, 1976
Colm Mulgrew, June 5, 1976.
Maire Drumm (Sinn Fein Official), October 28, 1976.
Michael McHugh (Sinn Fein Official), January 21, 1977.
Brendan McLaughlin, February, 1980.
Peter Corrigan, October 25, 1982.
Jeff McKenna, November 8, 1982.
Paddy Brady, November 16, 1984.
Brendan Davidson (Election Worker), July 27, 1988.
Aidan McAnespie (brother of Sinn Fein Candidate Eilish McAnespie McCabe), 1988.
Phelim McNally,[1] November 24, 1988.
John Davey (Sinn Fein Councillor), February 14, 1989.
Sam Marshall, March 7, 1990.
Tmmy Casey, October 26, 1990.
Fergal Caraher, December 30, 1990.
Martin McCauhey, 1990.
Eddie Fullerton (Sinn Fein Councillor in the Republic), May 24, 1990.
Danny McCauley (Sinn Fein Organizer), June 1991.
Thomas Donaghy (Sinn Fein Worker), August 16, 1991.
Patrick Shanaghan (Sinn Fein Worker), August 12, 1991.

ATTEMPTED ASSASSINATIONS

Joe Austin, Sinn Fein Councillor, February 29, 1980.
Alex Maskey, Sinn Fein Councillor, May, 1986
Gerry Adams, M.P. Sinn Fein, March 14, 1984.
Ivan Barr, Sinn Fein Councillor, December 25, 1986.
Michael Ward, Sinn Fein Election Worker, July 5, 1987.
F. Tennyson, May 1989.
Brendan Curran, Sinn Fein Councillor, Portadown, August 10, 1989.
Tony Discroll, (Attack on Sinn Fein Office—Ardoyne), 1990.
Tommy Casey.
Brendan Curran, October, 1989
Gerald Ramsey, Sinn Fein Worker, August 31, 1991.
Damien McBride, Sinn Fein Worker, October 15, 1991.
Sean Keenan, Sinn Fein Councillor, March 14, 1984 and June 90.
Gerald McGuigan (Sinn Fein Councillor), February 20, 1992.
Brendan Curran (Sinn Fein Councillor), April, 1992.
The McGuigan Family, March 23, 1993.
Joe Austin, Sinn Fein Councillor (Grenade attack on home), April 2, 1993.
Sinn Fein Advice Center Election Workers, May 17, 1993.
Jim Carson[2], August 10, 1991.
Bernard O'Hagan (Sinn Fein Councillor), September 16, 1991.
Larry Murchan[2], September 28, 1991.
Patrick Loughran, Patrick McBride, Michael O'Dwyer, (Sinn Fein Workers Killed), February 4, 1992.
Philomena Hanna[3], April 26, 1992.
Dan Cassidy, April 2, 1992.
Sheena Campbell, October 16, 1992.
Malachy Carey (Sinn Fein Candidate), December 12, 1992.
Martin Lavery (Brother of Sinn Fein Councillor), December 20, 1992.
Peter Gallagher, March 24, 1993.
Allan Lundy[4], May 1, 1993.

[1] Killed in assassination attempt on Sinn Fein Councillor Liam McNally, his brother.

[2] News agents killed for selling Sinn Fein newspaper An Phoblacht.

[3] Mistakenly thought to be sister of Sinn Fein press officer Richard McAuley.

[4] Killed while plastering Sinn Fein Councillor Alex Maskey's house.

THE FIREARM VICTIMS PREVENTION ACT

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mrs. MEEK. Mr. Speaker, a 3-year-old toddler, Edvina Blanc, was shot in the head while watching television in her home in Dade County. Eleven children have died of gunshots in Dade County between January and March 1993. At least 11 other children have been wounded by gunfire. For the past 3 years, 24 children have been shot to death, each year.

Every time I read or hear of a child who has become of a firearm victim, I feel anguish. It seems like every day we hear another study about a child being killed or killing with a gun. In fact every day, 12 children under age 19 are killed by guns, and many more are wounded. Nearly 3,200 teenagers fatally shoot each other every year.

This is frightening and unacceptable. We must do everything in our power as legislators to see that the mass killing of children in our country is stopped.

That is why I have introduced H.R. 2276, legislation to increase the Federal tax on the manufacture and sale of handguns, assault weapons, and ammunition for these arms, and to increase the license application fee for gun dealers.

The distinguished gentleman from New York, Representative CHARLES E. SCHUMER, and I have introduced this legislation so that the funds generated from a 25 percent tax on the manufacture and sale of these firearms will help offset the public cost of providing medical care to gunshot victims.

Our bill also creates a health care trust fund with an estimated revenue of $625 million a year generated from these fees.

The health care trust fund will make grants to hospitals, trauma centers, or other health care providers that incur the major costs of providing medical care to gunshot victims.

The overall annual cost of firearm injuries to our health care system is more than $4 billion. The cost to our Nation is too much and the cost to our Nation's children is beyond calculation.

I say it is time to put barriers in the way of children getting guns. If their parents cannot do it, then we need to do it. H.R. 2776 will make it more difficult for those who should not have guns to have access to them. More than 35,000 students in this country carry a handgun to school every day.

Today, all one needs to do to become a gun dealer in this Nation is fill out a simple, two-page questionnaire and send $30 to the U.S. Treasury. Unless the applicant states on the form that he or she has been convicted of a crime involving at least a 1-year prison term or is an illegal alien, a license will be issued good for 3 years. This person then becomes just one more access point for guns in our country.

At a time when we are struggling to get control of the dollars spent on health care, we must begin to look at the health care costs we are paying due to guns in this country. We are in fact paying a gruesome cost for the easy availability of firearms. A 1989 report to Congress, "Cost of Injury in the United States," ranked firearms third in the economic toll on society, amounting to a lifetime cost of $14.4 billion. The study found an estimated 65,000 people require hospitalization annually for treatment of firearms injuries, at a very high average per person cost of nearly $54,000. The average per person cost for a fatality is $373,520—the highest of any cause of injury. According to the chair of the 1991 Advisory Council on Social Security, the overall cost of firearm injuries to our health care system is more than $4 billion. The indirect costs of gun-related injuries, such as disability payments, lost-work time, and legal fees are about two times the annual cost of firearms injury. Public funds pay for an estimated 80 percent of the hospitalization costs of firearms injuries.

It is time that we look at the more than 76 million privately owned handguns and assault weapons in this Nation in the same way we look at alcohol. As we search for ways to pay for health care, many are looking at equating the use of alcohol with its burden on our health care system. Some States are raising

taxes on alcohol to help offset the cost of providing quality health care to all our citizens. We should do the same at the Federal level with handguns and those firearms most often associated with intentional death and injury.

Identical legislation, S. 868, was introduced by Senator PATTY MURRAY. I urge our colleagues, Mr. Speaker, to join Mr. SCHUMER and I by cosponsoring this important legislation.

CORRECTED REPORT ON U.S LICENSES/APPROVALS FOR THE EXPORT OF COMMERCIALLY SOLD DEFENSE ARTICLES/SERVICES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. HAMILTON. Mr. Speaker, on April 21, I inserted into the RECORD a quarterly report pursuant to section 36(a) of the Arms Export Control Act that included a complete tabulation of U.S. arms exports and U.S. licenses/approvals for the export of commercially sold defense articles and defense services. This extension of remarks appeared on pages E-971 through E-973 of the CONGRESSIONAL RECORD.

In this regard, the original report that was submitted to the Speaker's Office included erroneous information with respect to U.S. licenses/approvals for the export of commercially sold defense articles and defense services to the People's Democratic Republic of Korea. Officials at the Defense Security Assistance Agency have subsequently reported that this error was the result of administrative error.

For that reason, I am inserting a copy of a letter conveyed to the Speaker which clarifies this error, as well as a copy of the corrected section 36(a) report on U.S. licenses/approvals for the export of commercially sold defense articles and defense services.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, April 30, 1993.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Reference is made to reports furnished under the Arms Export Control Act, Section 36(a)(4) on 22 June 1992 (I-01162/92), 3 September 1992 (I-02039/92), 4 December 1992 I-04665/92) and 3 March 1993 (I-00601/93) in which exports of commercially sold defense articles/services to the Peoples Democratic Republic of Korea were erroneously reported due to administrative error. In fact, no sales were made to that country. All sales were actually made to the Republic of Korea. Attached are the corrected tables.

Any inconvenience is regretted. We have installed measures to preclude such errors in the future.

Sincerely,

GLENN A. RUDD,
Acting Director.

LICENSES/APPROVALS FOR THE EXPORT OF COMMERCIALLY SOLD DEFENSE ARTICLES/SERVICES—SEPTEMBER 30, 1993

[In thousands of dollars]

Country/purchaser	October to December	January to March	April to June	July to September	Cumulative
Algeria	6	266	618	473	1,363
Andorra	8	78	12	53	151
Antigua	2	8,174	0	1	8,177
Argentina	4,387	0	6,361	67,427	78,175
Australia	167,416	270,043	78,306	57,439	573,204
Austria	9,446	2,619	9,277	4,717	26,059
Bahamas	2,274	14	87	46	2,421
Bahrain	2,671	5,152	519	154	8,496
Bangladesh	36	1	8	229	274
Barbados	9	25	76	103	213
Belarus	0	0	0	1	1
Belgium	29,436	64,283	38,251	72,507	204,477
Belize	13	31	1	6	51
Benin	0	0	0	(1)	(1)
Bermuda	4	12	33	16	65
Bhutan	0	58	15	0	73
Bolivia	391	2,815	584	1,342	5,132
Botswana	11	69	8,188	159	8,427
Brazil	23,439	17,237	24,999	9,077	74,752
British Virgin Islands	0	0	(1)	0	(1)
Brunei	3,105	87	589	87	3,868
Burundi	0	17	4	0	21
Cameroon	7	0	0	3	10
Canada	5,592	495	44,197	2,294	52,578
Cayman Islands	7	15,035	52	14,904	29,998
Chad	0	299	0	4,932	5,231
Chile	3,387	3,208	2,846	1,275	10,716
China	565	200	0	4,632	5,397
Colombia	2,768	772	1,946	765	6,251
Congo	0	0	88	0	88
Costa Rica	20	10,863	3,968	168	15,019
Cyprus	16	64	27	3	110
Czechoslovakia	59	161	233	16	469
Denmark	13,635	16,373	14,138	27,590	71,736
Djibouti	0	0	19	0	19
Dominica	1	0	8	1	10
Dominican Republic	180	270	216	499	1,165
Ecuador	942	790	1,129	2,968	5,829
Egypt	60,471	50,211	140,114	200,875	451,671
El Salvador	793	345	19	68	1,225
Finland	27,812	9,722	6,144	4,731	48,409
France	126,288	66,992	154,742	76,507	424,529
French Guiana	9,856	107	48,635	1	58,599
French Polynesia	1	0	0	32	33
Gabon	507	158	0	1	666
Germany, Berlin	0	133	0	0	133
Germany, Federal Republic of	182,963	255,737	379,990	325,121	1,143,811
Chana	4	0	0	5	9
Greece	55,277	175,960	324,902	42,742	598,881
Grenada	0	(1)	0	0	(1)
Guadeloupe	0	0	17	0	17
Guatemala	175	576	175	1,173	2,099
Guinea	0	8	2	1	11
Guyana	61	4	17	12	94
Haiti	0	0	0	(1)	(1)
Honduras	611	2,114	973	205	3,903
Hong Kong	914	3,642	36,588	37,698	78,842
Hungary	31	172	179	648	1,030
Iceland	23	2	16	3	44
India	52,032	2,766	7,391	8,071	70,260
Indonesia	12,955	15,339	22,407	49,702	100,403
ireland	390	1,134	1,491	983	3,998
Israel	209,074	121,731	162,094	136,885	629,784
Italy	84,230	67,746	108,517	46,784	307,277
Ivory Coast	2	108	1	(1)	111
Jamaica	84	1,478	1,339	456	3,357
Japan	340,644	547,923	596,058	615,037	2,099,662
Jordan	8,277	8,624	9,144	1,082	27,127

LICENSES/APPROVALS FOR THE EXPORT OF COMMERCIALLY SOLD DEFENSE ARTICLES/SERVICES—SEPTEMBER 30, 1993—Continued

[In thousands of dollars]

Country/purchaser	October to December	January to March	April to June	July to September	Cumulative
Kenya	131	81	2	163	377
Korea, Republic of	904,008	241,113	233,780	114,077	1,492,978
Kuwait	4,275	52,409	31,143	10,378	98,205
Lebanon	613	47	81	330	1,071
Liechtenstein	0	0	0	2	2
Lithuania	0	0	0	50	50
Luxembourg	4,546	2,982	1,723	3,885	13,136
Macau	17	11	22	173	223
Madagascar	0	2	0	5	7
Malaysia	67,190	219,818	11,372	62,070	360,450
Maldives	0	0	318	0	318
Mali	2	0	0	1	3
Malta	0	(1)	0	0	(1)
Martinique	0	0	0	20	20
Mauritania	0	2	0	0	2
Mauritius	2	27	544	0	573
Mexico	216,595	114,742	216,753	153,316	701,406
Monaco	1	0	11	0	12
Morocco	20,121	76	19,096	7,186	46,479
Mozambique	0	59	0	0	59
Namibia	660	609	288	1,383	2,940
Nepal	(1)	0	34	0	34
Netherlands	152,532	62,228	42,698	64,724	322,182
Netherlands Antilles	42	19	3	52	116
New Caledonia	7	39	30	27	103
New Zealand	4,410	11,140	2,318	12,921	30,789
Nicaragua	88	94	11	15	208
Niger	200	0	0	0	200
Nigeria	1,059	897	278	446	2,680
Norway	72,282	21,676	68,997	22,439	185,394
Oman	2,033	549	18,535	1,532	22,649
Pakistan	50,176	52,289	8,867	15,628	126,960
Panama	2,374	818	2,133	349	5,674
Papua New Guinea	1,601	11	1,128	24	2,764
Paraguay	711	2,085	1,677	702	5,175
Peru	5,580	3,912	81	96	9,669
Philippines	18,547	1,924	23,255	2,631	46,357
Poland	150	1	495	135	781
Portugal	3,480	7,185	31,642	8,567	50,874
Quatar	164	995	343	876	2,378
Russia	0	17	8	1	26
San Marino	7	0	0	0	7
Saudi Arabia	240,120	43,448	109,365	232,488	625,421
Senegal	367	274	0	0	641
Sierra Leone	633	1,608	94	32	2,367
Singapore	82,868	15,120	70,772	15,531	184,291
Solomon Islands	0	8	2	0	10
South Africa	0	0	0	25	25
Spain	22,339	74,786	72,207	64,706	234,038
Sri Lanka	1,166	303	39	15	1,523
St. Lucia	20	4	(1)	4	28
Sudan	0	41	0	49	90
Suriname	11	1	11	1	24
Svalbard and Jan Mayen	600	0	0	0	600
Swaziland	4	16	0	0	20
Sweden	62,417	10,418	99,747	65,830	238,412
Switzerland	80,320	7,569	30,380	17,665	135,934
Taiwan	25,264	14,400	9,695	46,251	95,610
Tanzania	(1)	2	559	32	593
Thailand	39,626	10,822	123,093	202,514	376,055
Tokelau	0	23	32	0	55
Tonga	0	0	0	3	3
Trinidad & Tobago	110	21	31	93	255
Tunisia	348	66	168	1,592	2,174
Turkey	101,701	39,390	228,847	289,468	659,406
Turks & Caicos Islands	1	(1)	0	0	1
Uganda	135	18	7	57	217
Union of Soviet Socialist Republics	0	0	6,034	(1)	6,034
United Arab Emirates	13,617	74,734	132,188	12,376	232,915
United Kingdom	265,261	177,753	386,544	190,595	1,020,153
Uruguay	3,562	6,308	3,005	1,090	13,965
Venezuela	3,040	25,553	10,012	26,679	65,284
Yemen (Sanaa)	1	3	3	131	138
Yugoslavia	0	13,096	0	0	13,096
Zambia	0	16	179	342	537
Zimbabwe	8	13	9	195	225
Calssified Totals[2]	379,249	113,539	224,863	168,926	886,577
International Orgs	59,900	3,088	368,706	1,485	433,179
Worldwide total	4,359,600	3,182,541	4,832,008	3,645,089	16,019,238

[1] Less than $500.
[2] See classified annex to CPD.
Note.—Details may not add due to rounding.

131ST FIGHTER WING ANG HONORED

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. SKELTON. Mr. Speaker, I rise today with great praise for the 131st Fighter Wing Air National Guard of Missouri, based at the St. Louis International Airport.

On Thursday, May 20, Nellis Air Force Base, in the State of Nevada, hosted the Long Shot Competition. This is the first air competition since before the Persian Gulf war.

Long Shot was a long range conventional bombing competition developed to incorporate the variety of fighter and bomber aircraft in Air Combat Command into a conventional combat strike force.

The number and variety of aircraft used in this exercise is a good indication of the complexity of Long Shot and its success shows the versatility of Nellis and the capability of today's Air Combat Command.

The winner of the Long Shot Competition was team 3, comprised of two A–10's, four F–15A's from the 131st Fighter Wing Air National Guard based at the St. Louis International Airport in Missouri, four F–15E's and two B–52's.

Long Shot demonstrated the effectiveness of teamwork and integrated air power.

The Long Shot pilots of the 131st Fighter Wing are: Capt. Daniel E. Barr, Capt. Joseph F. Blake, Capt. Michael W. Harrell, and Capt. Robert W. Hehemann.

The Long Shot crew chiefs of the 131st Fighter Wing are: S. Sgt. John M. Berry, S. Sgt. Michael V. Nabholz, S. Sgt. Robert J. Debrecht, S. Sgt. Bryan H. Durbin, S. Sgt. Gregory E. Essary, S. Sgt. Scott S. Guthrie, S. Sgt. Michael T. Runge, and S. Sgt. William E. Springer.

Mr. Speaker, not only did the crew chiefs maintain the F–15A's, an F–15E was engulfed in flames after landing and the crew chiefs extinguished the fire.

These men represented the 131st fighter wing, the State of Missouri, the Missouri Air National Guard, and themselves very proudly. Congratulations on their achievements.

150TH ANNIVERSARY OF THE INCORPORATION OF THE TOWN OF ROCKY HILL, CT—A SESQUICENTENNIAL COMMEMORATIVE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mrs. KENNELLY. Mr. Speaker, I rise today to recognize a very important anniversary in the First Congressional District of Connecticut, the 150th anniversary of the incorporation of the town of Rocky Hill.

Rocky Hill, a 14-square mile community of 17,000 residents, lies in the center of Connecticut along the banks of the Connecticut River. It is fertile agricultural land once inhabited by the Wanguńk Indians prior to English settlement there in 1650. It was known first as the "lower community," and was part of the Town of Wethersfield, first settled in 1634. In 1722, the lower community became a separate parish in Wethersfield; it was called "Stepney," after the London borough.

The parish flourished through the 1700's and early 1800's. A meeting house was built in 1726, and served as the religious and civic center of the growing agricultural community. Stepney Parish possessed a substantial shipbuilding and riverport business handling the diverse farm and livestock trade among Connecticut River towns. Numerous stream-driven grist mills complemented the agriculturally based commerce of the parish. Of historical note is the Rocky Hill-Glastonbury Ferry; established in 1655, It is the oldest continuously operating ferry in the United States.

Stepney Parish shipbuilders contributed to the young American naval fleet during the Revolutionary War. Some of the ships were commissioned by the State of Connecticut as "privateers." This activity led to the establishment of many inns which were patronized by seafarers and travelers alike.

In 1820, Stepney Parish submitted a petition to the Connecticut General Assembly requesting separation from Wethersfield. Following numerous failed attempts, leaders like as Rev. Calvin Chapin, the Minister of the Congregational Church, Elias Robbins, and other finally succeeded in obtaining legislative approval on June 10, 1843. In accordance with the charter, Stepney Parish became Rocky Hill. With its first town meeting held on June 23, 1843, the town of Rocky Hill was established. On that historic day, its population totalled about 1,000.

Over the next 150 years, Rocky Hill prospered. It remained an agricultural community, although a few manufacturing concerns sprang up. Because it is only 6 miles from the city of Hartford, Rocky Hill also became home for hundreds of residents who worked in Connecticut's capital city. By 1943, Rocky Hill had grown to 3,000 residents.

Today, Rocky Hill is a thriving suburban town, that has fortunately retained much of its rural and historic character. While housing has developed where farms once stood, there still remain thousands of acres of still-cultivated agricultural land, some adjacent to modern office and commercial complexes.

Rocky Hill has been blessed with steady cultural, religious, and governmental leadership throughout its history. From settlement to development, these individuals have always remained centered on what was best for Rocky Hill. Since the days of George Washington, Rocky Hill has distinguished itself as a dynamic and progressive community. Those virtues hold steadfast today.

Mr. Speaker, I am honored to mark the sesquicentennial anniversary of the incorporation of the town of Rocky Hill, CT.

MARTHA CAROLINE GROTE HONORED

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. COX. Mr. Speaker, I rise today to pay a birthday tribute to a strong and gracious lady whose life has spanned this century. Born in Zumbrota, MN on May 29, 1903, Martha Caroline Grote's life is a model of dedication to family and neighbors, and it exemplifies the American work ethic.

After attending school in a one-room schoolhouse, she graduated from the eighth grade and went on to work on a registered dairy farm near Red Wing, MN. Her tasks varied widely, 1 day plowing fields, the next cleaning barns, another milking the cows. Her work ethic sprung from the influence of her first employer, a woman who helped in molding her life.

Marriage led to a relocation in Fairbault, MN, where she worked as an instructor and sample maker in a shoe factory. Moving to St. Paul, she transferred to the employ of H. Harris Manufacturing, as both a supervisor and instructor.

Eventually, her hard work paid off, and she was able to purchase her lifelong home on Beechwood Ave., where she still resides. Now celebrating her 90th birthday, she continues to sew, repair, and alter clothing for her friends and neighbors. May Good bless Martha Grote as she begins her 10th decade.

EXCESSIVE BANKING REGULATIONS

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. RAMSTAD. Mr. Speaker, Congress should act now to spur the creation of jobs by lifting the regulatory burden on America's banks.

We've seen the Federal Register of government regulations grow by 27,000 pages already this year.

In 1980, there was one regulator for every three banks in this country—but by the end of the decade, there will be three regulators for each bank

This regulatory overkill means higher costs for consumers and few loans for small businesses.

I recently visited Richfield Bank & Trust in my district to review the paperwork required by regulatory agencies. I was stunned by the endless paperwork and unnecessary redtape involved in the approval of a simple business loan.

Referring to the Clinton administration's plan to ease some of these regulations, a former head of the FDIC, said, "I don't think the administration's plan will change anything."

Mr. Speaker, Congress must address the problem of regulatory overkill. Congress must quit stifling business growth and job creation.

Congress must act to ease banking regulations now.

THE CASE OF JONATHAN POLLARD

HON. DAVID A. LEVY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. LEVY. Mr. Speaker, in November 1985, Jonathan Pollard was arrested and charged with spying on behalf of Israel. Seven months later and pursuant to an arrangement with the prosecutors, Mr. Pollard entered a plea of guilty. In exchange for the plea, prosecutors were not to seek the maximum penalty of life imprisonment and were to advise the court of Pollard's cooperation during the investigation. Notwithstanding this agreement, Mr. Pollard was sentenced to a life term.

I certainly do not condone the activities in which Mr. Pollard has engaged and to which he has admitted. Espionage is a serious offense and penalties for those convicted on espionage charges should fit the crime. I do believe, however, that the punishment meted out in the Pollard case was excessive. Further, it completely violated the plea arrangement to which Mr. Pollard agreed.

Mr. Speaker, the case concerning Jonathan Pollard is mind boggling. One hour before Mr. Pollard was to be sentenced in 1987, then Secretary of Defense Caspar Weinberger sent a hand-delivered letter to the judge, urging the stiffest possible sentence "commensurate with the enduring quality of treason"—totally ignoring the fact that Mr. Pollard was never ac-

cused of treason. At a hearing in 1991, one of the judges asked the prosecutor "How in God's name can you justify Weinberger's use of the word "treason" in his memorandum to the sentencing judge?" In turn, the prosecutor admitted that the word "treason" in Mr. Weinberger's memorandum was regrettable.

Mr. Speaker, I was assured recently that Mr. Pollard's application for commutation of his life sentence is being considered by the Justice Department. I am hopeful that the administration will soon discern this fundamental miscarriage of justice and grant Mr. Pollard the fairness and equity that is afforded every American citizen.

PRESIDENT CLINTON CONGRATULATED

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. LIGHTFOOT. Mr. Speaker, I congratulate the President on his decision to renew MFN to China for another year. I find it ironic Mr. Speaker, that President Clinton constantly criticized President Bush for his foreign policy decisions in China and Bosnia but when it comes time to do something he always seems to "stay the course" set by Mr. Bush.

Mr. Clinton's decision represents a victory for people who believe in doing more than grandstanding and showboating to make it look like they care. That's why we won't see MFN bills on the floor of the House this year, they simply were not serious solutions. Our relations with China are complicated and we must pursue separate policies for each problem.

Mr. Speaker, I hope at the least, Mr. Clinton will pursue the concept of annual high level talks on human rights, similar to the annual human rights talks between China and Australia. I also hope he will consider formalizing such talks by establishing a bilateral Human Rights Commission with China, similar in concept to my proposal, H.R. 2254.

NATIONAL HISTORIC PARK IN NEW BEDFORD, MA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, the Massachusetts House of Representatives recently passed a very important resolution, dealing with a subject on which I am working very hard in Congress. That subject is the creation of a National Historic Park in New Bedford, MA, making the great waterfront of that city more widely known to the public in a manner that will allow more and more people to enjoy it and learn from it.

The waterfront in New Bedford has been an important part of America's economy for nearly all of our country's history. From the whaling days of the 19th century to today, it has been a vibrant, working part of our regional economy, while at the same time it is today an extraordinarily vivid example of American history preserved.

An extremely dedicated and thoughtful group of people who have come together in the Waterfront Historic Area League, known as WHALE, brought to my attention the strong arguments for creating a national park here, and with the active help of the city administration, I have been working closely with WHALE to get approval from the appropriate Federal entities, both the executive and legislative, of a national park here.

As an example of the wide support which this project has in New Bedford, the three State Representatives who represent the city of New Bedford in the Massachusetts House—Joseph McIntyre, Antonio Cabral, and Robert Koczera—combined to secure passage of a resolution memorializing us to act on this. The resolution does an excellent job of stating the strong case for movement here, and I ask that this memorial be printed at this point in the RECORD so that my colleagues will be able to see it and understand the case.

RESOLUTION

Whereas, New Bedford during the nineteenth century was known far and wide as the whaling capital of the world and in this role provided both the oil that fueled the Nation's lamps and the lubricants that kept the wheels of the industrial revolution turning; and

Whereas, its whaleships and whalemen furnished the inspiration for Herman Melville's "Moby Dick," considered by many the greatest of all American novels; and

Whereas, it's importance in American history extended beyond whaling into areas such as immigration and black history; and

Whereas, the people of New Bedford have over the years lovingly preserved and restored a host of fine nineteenth century buildings, including the Seaman's Bethel, immortalized in "Moby Dick," and the Rotch-Jones-Duff House and Garden Museum, one of the finest monuments to Greek revival architecture in the country; and

Whereas, the city's twenty-acre national historic landmark district has become a model for historic preservation and economic revitalization, successfully integrating tourism and industry in an environment of restored whaling era buildings, streets and sidewalks; and

Whereas, its national historic landmark schooner *Ernestina*, gift of the Republic of Cape Verde to the people of the United States, serves as a symbol both of our country's maritime heritage and of its ethnic diversity; and

Whereas, its whaling museum houses the world's foremost collection of whaling artifacts and documents as well as an extensive collection of art glass and painting created in New Bedford by artist's drawn to the city by whaling era prosperity, and

Whereas, the National Park Service has determined that the theme of whaling is significant enough in American history to merit a national park, and

Whereas, no such park exists in the National Park System today; and

Whereas, New Bedford meets all established Park Service criteria and has been determined by the Park Service to be the best single place to present the story of whaling; and

Whereas, a report evaluating the economic impact of a national park on the Greater New Bedford area concludes that such a park would spur the creation of hundreds of new jobs and add millions of dollars annually to the local economy; therefore be it

Resolved, That the Massachusetts House of Representatives respectfully memorializes the Congress of the United States to recognize the significance of creating a National Historic Park in the city of New Bedford, Massachusetts, in order to interpret and relate the history of the whaling industry in America, and be it further

Resolved, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the presiding officer of each branch of Congress and to the members thereof from this commonwealth.

BANKRUPTCY AMENDMENTS OF 1993

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. SYNAR. Mr. Speaker, today I am introducing legislation that will streamline the often lengthy and costly consumer bankruptcy process by resolving several problem areas in the administration of the Bankruptcy Code. This measure reforms the Code by strengthening and clarifying the bankruptcy rights of individual debtors, including homeowners and businesses, while addressing numerous creditors' concerns with the present Code.

As a Member who has been involved in bankruptcy issues over the years, my primary goal in reform legislation is to ensure that the Bankruptcy Code remains balanced between the needs of the debtor and the rights of the creditor. Because much time has passed since Congress has addressed this substantive bankruptcy issue, the law's balance has become endangered and the need for reform is critical. Some of the Code's provisions are outdated, while other problems stem from court interpretations of particular sections.

The problems with the Code have been further exacerbated by the rise in individual bankruptcy filings which in itself is a matter for concern and examination. In addition, the ability of retailers, small businesses, and lending institutions to conduct business will be negatively impacted without bankruptcy reform.

The bill I introduce today takes direct aim at the Bankruptcy Code problems facing consumers. The legislation's major provisions will expand a debtor's eligibility to file under chapter 13; clarify the definition of household goods exempted from the bankruptcy estate; clarify the definition of fraudulent transactions; liberalize reaffirmation agreements; protect purchase-money secured creditors from avoidable transfers by conforming the Code with State laws; eliminate cramdowns for residential mortgages and extend the payment period from 3 to 5 years without having to show good cause.

It is time for the Bankruptcy Code to be updated and streamlined in a fair and balanced manner that allows debtors and creditors to use the Code to its fullest advantage. This bill accomplishes that goal and I urge my colleagues to strongly support the legislation.

GRAPHIC POSTCARD ACT OF 1993 INTRODUCED

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I rise to urge your support for legislation that I have introduced, the Graphic Postcard Act of 1993. My bill, formulated after postcards showing a dismembered fetus were sent unsolicited to four towns in Connecticut, requires that material depicting violent or sexually explicit acts sent through the U.S. Postal Service be enclosed in an envelope emblazoned with a large print warning.

It is not unusual for parents to allow small children to open the mailbox and examine the contents. Bills, letters, and most advertisements pose no threat to young children. Sexually explicit material is already required to be covered when sent through the mail.

The right to free speech is one we all cherish. This legislation will not interfere with free speech; it does not prohibit graphic materials to be mailed, but instead places a simple requirement on their mailing in order to protect children. Like it or not, those responsible for these postcards have every legal right to use the U.S. mail to express their viewpoints. However, I believe that parents have an equal right to protect their children from graphic presentations of frightening violent actions. Requiring an envelope and warning does not infringe on the sender's freedom of speech, it simply guarantees protection for our Nation's children.

This is rational action to stop dangerous behavior. Hundreds of my constituents have called or written to let me know they were outraged by these postcards. The level of violence in our society has reached an unprecedented level and is eroding the values that have made us a strong society. We have a special obligation to protection and this is step one.

I, therefore, urge my colleagues to join me in support of the Graphic Postcard Act of 1993.

THE GROWING IRANIAN THREAT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. McCOLLUM. Mr. Speaker, today I would like to take this opportunity to call to the attention of the House an article dealing with the State Department's Iranian policy which appeared on the front page of the May 27 New York Times. The article cites recent State Department remarks on Iran, reflecting a shift in both attitude and policy. State Department officials have wisely pointed out the ever increasing danger posed by the belligerent policies of Iran toward the United States.

As chairman of the House Republican Task Force on Terrorism and Unconventional Warfare, I am pleased by the State Department's change of attitude toward Iran. For several years, the task force has documented Iran's irresponsible and threatening behavior. For example, the task force reported almost 2 years ago Iran's intention to acquire nuclear weapons. We have also revealed Iran's involvement in the attempt to overthrow the recognized Government of Egypt. And on March 1 of this year the task force connected the shootings at the CIA and the bombing of the World Trade Center to Iran long before either investigators or the media were willing to concede any ties.

The task force has received criticism from some elements of the media and Government for its supposed extreme views regarding Iran. It is now apparent that these views were less extreme and, in fact, accurate reports of Iranian behavior. However, the State Department's long overdue shift in attitude is only the first step in neutralizing Iran's exporting of terrorism to the United States and other Western nations. We must recognize, in all areas of government, that terrorism is a real threat here in the United States. Iran, in effect, is conducting a type of low-intensity war against America and its allies designed to confound our legal system and standards.

Why is Iran doing this? We must recognize that Iran's primary goal is to destabilize the Middle East and the Moslem world so that it can overthrow the pro-United States Government in Saudi Arabia and the other emirates. In the absence of a stable and moderate Saudi Arabian Government, Iran would begin to exert influence on oil production and pricing, thereby increasing its influence worldwide. In such a context Israel would also be much more vulnerable to attack but could not be certain of Western support due to Iran's stranglehold on the world's petroleum lifeline.

By the imperatives of this strategy, Iranian strikes against and in the United States can be used to demonstrate to those regimes dependent on United States protection that not even America can defend itself.

In order to effectively combat this Iranian aggression our Government must create a full and complete policy to anticipate, prevent, and, if necessary, retaliate against state-sponsored terrorism against the United States. To prevent future World Trade Center bombings, it is going to require greater commitment and planning than simply calling for further economic sanctions.

The following is the text of the New York Times article:

FEARING MORE HOSTILITY FROM IRAN, U.S. CONSIDERS MOVES TO ISOLATE IT

(By Douglas Jehl)

WASHINGTON, May 26.—The Clinton Administration is preparing a broad new effort to weaken Iran by persuading reluctant allies to cut off loans, investment and arms sales to what American officials regard as a permanently hostile Government.

The plan, drafted as part of an intensive policy review, reflects a conclusion that Iran must be isolated if it is to be prevented from emerging as a substantial threat to Western interest. Thus, the plan rejects Reagan and Bush Administration policies that offered to reward Teheran for good behavior.

ABANDONING A BALANCE

Administration officials said the new approach aimed at denying Iran access to the money and weapons needed to complete a military resurgence. They said it was based on a decision that the United States and its allies should now treat Iran as harshly as it treats Iraq.

For much of the 1980's, the United States sought to play Iran and Iraq against one another. But with United Nations sanctions imposed on Iraq since the end of the Persian Gulf war, the Administration has concluded that the wiser policy is "dual containment."

Secretary of State Warren Christopher hinted at the emerging shift earlier this year by denouncing Iran as an "international outlaw" and a "dangerous country" for its support of terrorism and its pursuit of nuclear weapons. But the new policy is far more sweeping than Mr. Christopher indicated when he said the United States would seek to block loans to Iran by international organizations.

Administration officials say the isolation of Iran should end only if Teheran halts its support for terrorism, curtails its military buildup, stops its subversion of other governments and ends its quest for nuclear weapons.

CATALOGUE OF ACCUSATIONS

Among the antagonistic activities that United States officials attribute to Iran is active support for efforts by the Hamas and Party of God organizations to use violence to disrupt the Mideast peace talks. The officials say Iran has also helped establish terrorist training camps in Lebanon and the Sudan, and has assisted groups trying to overthrow the Governments of Egypt, Algeria, and Tunisia.

The United States already subjects Iran to stiff sanctions that prohibit military and most commercial ties. Administration officials said their new policy could succeed only if other countries could be persuaded to change course.

Among the top priorities, Administration officials said, are efforts to convince Russia and China to cancel deals to provide Iran with weapons and nuclear reactors, and to persuade Japan, Germany and Britain to cut off loans.

None of those countries have shown any willingness to sever such lucrative ties, and Japan in particular has argued that commercial links can encourage moderate elements inside Iran. But while the United States once harbored similar hopes, Administration officials now regard all factions in the current leadership as bound to remain hostile toward the West.

While many deals between United States companies and Iran are already prohibited, the new policy would almost certainly lead the Administration to reject a request by the Boeing Company to sell 20 Boeing 737 jetliners to Iran, a deal worth more than $750 million, officials say.

The broad outlines of the new approach were described in a speech last week by Martin S. Indyk, the senior director for Middle East policy for the National Security Council, to the Washington Institute for Near East Policy, a research group.

Mr. Indyk said bluntly, "If we fail in our efforts to modify Iranian behavior, five years from now Iran will be much more capable of posing a real threat to Israel and to Western interests in the Middle East."

The review of United States policy toward Iran was one of several dozen such studies requested by President Clinton shortly after he took office.

But the atmosphere surrounding it has been intensified by suspicions that Iran might have had a role in the World Trade Center bombing, Government officials say. Investigators have found that tens of thou-

sands of dollars were wired from Iran to bank accounts held by suspects in the bombing.

NO HELP LIKELY FOR REBELS

Final details of the plan await White House approval, Administration officials say. But while Mr. Clinton made overtures to the main Iranian opposition group before he took office, his advisers said there was no chance that the new policy would involve closer ties with the group, the People's Mujahedeen.

The Administration has concluded that the Mujahedeen's ties to Iraq and its terrorist attacks against Americans in the 1970's make it an unacceptable partner.

The officials also expressed little optimism that the organized resistance or other domestic unrest could force a significant change in the Iranian Government. They said they expected President Hashemi Rafsanjani to win re-election to a second four-year term in elections on June 11.

Administration officials also said the United States had rejected seeking an embargo on sales of Iranian oil. the rebels have called for such a ban, but the policy review concluded that it could not be enforced without imposing a military blockade, a step Mr. Clinton's advisers are unwilling to take.

In outlining the effort to isolate Iran, Administration officials acknowledged that the task would be more difficult than the containment of Iraq, which carries the weight of United Nations sanctions.

In March, an initial United States attempt to isolate Teheran failed when the World Bank overrode Washington's objections and approved a $165 million loan to upgrade Iran's electrical power system. But officials who outlined the new policy said the United States intended to amount an aggressive effort to persuade other countries of the dangers Iran poses.

Administration officials have begun to argue that Iran, which has borrowed $25 billion in the last four years, is not a good investment. Teheran has already fallen $5 billion behind on its payments, and the Administration intends to warn countries that go ahead with sales of weapons and nuclear goods that they run the risk of not being paid.

Because of high inflation and unemployment, a senior Administration official said, Iran was "more vulnerable than it has been in the past or is likely to be in the future." But he repeated Mr. Indyk's warning that "this moment will not last long."

The Central Intelligence Agency has warned that Iran may acquire a nuclear weapon by the end of the decade. Its deals with Russia and China for nuclear reactors are regarded with uneasiness by some American analysts, who say the plants may be being used as a cover to acquire sensitive technology.

A simultaneous Iranian buildup of conventional military forces has prompted similar concern. While officials at the Defense Intelligence Agency have said Teheran's $2 billion military spending spree may be merely an effort to rebuild forces depleted during its eight-year war with Iraq, purchases of Russian submarines and a bid to buy top-of-the-line tanks have persuaded other officials that Iran seeks to become the dominant power in the Mideast.

TRIBUTE TO E.I. "MIKE" HOCKADAY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. SKELTON. Mr. Speaker, today I pay tribute to an outstanding Missourian and personal friend, E.I. "Mike" Hockaday, who died on Friday, May 21, 1993.

Mike Hockaday was born on June 3, 1911, in Pleasant Hill, MO. He graduated from Westminster College in Fulton in 1935 and taught at the Algoa Intermediate Reformatory for 2 years.

On July 1, 1937, Mike Hockaday began his long and successful career with the Missouri State Highway Patrol. In 1957 he was named lieutenant colonel and served as acting police chief of Kansas City during 1961. In November 1965, he was named superintendent of the Missouri State Highway Patrol, and served as that until January 1973. In addition, Colonel Hockaday held numerous positions with the Missouri Peace Officers Association and the Missouri Police Chiefs Association. In 1983, Colonel Hockaday was elected as presiding commissioner of the Cole County Commission, which he held until December 1986.

Along with his many years of service to the Missouri State Highway Patrol, Mike Hockaday was also active in many community activities. He was an elder of the First Presbyterian Church, past president of the Jefferson City Rotary Club, member of the board of trustees of Memorial Community Hospital, executive board of the Boy Scouts of America, and member of the law enforcement education advisory board.

E.I. Hockaday is survived by his wife, Cerese McQueen Hockaday; 2 daughters, Joanne Czarlinsky of Jefferson City and Karen H. Avery of Overland Park; a sister, Isalind Terril of Pleasant Hill; 6 grandchildren and 10 great-grandchildren.

E.I. Hockaday will not only be missed by his family and friends, but by his community as well.

COLONEL HOCKADAY DIES AT AGE 81

E.I. "Mike" Hockaday, 81, former superintendent of the Missouri State Highway Patrol and presiding commissioner of Cole County, died Friday at Meadowbrook Manor Nursing Home in Jefferson City.

He was born June 3, 1911, at Pleasant Hill, a son of I.H. and Isa Orem Hockaday.

On June 27, 1929, he was married at Horton, Kan., to the former Cerese McQueen, who survives at the home.

A graduate of Pleasant Hill High school and a 1935 graduate of Westminster College in Fulton, he taught school at the Algoa Intermediate Reformatory for two years prior to his appointment to the Missouri State Highway Patrol on July 1, 1937.

He was placed in charge of the patrol's crime laboratory in 1940, promoted to the rank of sergeant in 1940 and to lieutenant in 1943.

He was a graduate of the FBI National Academy in 1944. He also attended various seminars on police work and lectured at the Missouri State Highway Patrol Academy.

Col. Hockaday was a guest lecturer at the Southern Police Institute at the University of Louisville.

On July 1, 1946, he was promoted to the rank of captain and placed in command of the patrol's general headquarters in Jefferson City. He was promoted to the rank of major and named assistant superintendent of the patrol on May 1, 1953. He was named lieutenant colonel in 1957.

From April of 1961 until September of 1961 Hockaday served as acting police chief of Kansas City, appointed by the later former Gov. John M. Dalton.

Upon the death of Col. Hugh Waggoner, Col. Hockaday was named superintendent of the Missouri State Highway Patrol on Nov. 16, 1965, by former Gov. Warren E. Hearnes.

Col. Hockaday served as patrol superintendent until January of 1973, when he was replaced by Sam C. Smith, who was appointed by former Gov. Christopher S. Bond.

Col. Hockaday held numerous positions with the Missouri Peace Officers Association and the Missouri Police Chiefs Association. He also was a member of the International Association of Chiefs of Police. He was president of the Missouri Peace Officers Association in 1970 and executive vice president of the International Association of Chiefs of Police in 1972.

Col. Hockaday was a member of the Missouri Academy of Squires. He also received the Westminster College Distinguished Alumni Award.

Col. Hockaday was elected as presiding commissioner of the Cole County Commission. He served from January of 1983 until December of 1986.

Active in several organizations, he was a member and elder of the First Presbyterian Church; a member and past president of the Jefferson City Rotary Club; a member of the Board of Trustees of Memorial Community Hospital, a member of the executive board of trustees of Memorial Community Hospital; a member of the executive board of the Boy Scouts of America; and a member of the Law Enforcement Education Advisory Board.

Col. Hockaday was a past president of the Jefferson City Salvation Army, a member of the board of directors of the Cole County Historical Society and a member of the board of Alumni Council of Westminster College.

In addition to his wife, Col. Hockaday is survived by two daughters, Mrs. Joanne Czarlinsky of Jefferson City and Mrs. Karen H. Avery of Overland Park; one sister, Mrs. Isalind Terril, Pleasant Hill; six grandchildren and 10 great-grandchildren.

Private graveside services and burial will be at Riverview Cemetery.

Visitation will be at the First Presbyterian Church from noon until 1 p.m. Monday.

A memorial service will be at 1 p.m. Monday at the First Presbyterian Church, with the Rev. R.W. Beard officiating.

Memorial contributions may be made to the First Presbyterian Church or to the Rotary Foundation.

Arrangements are under the direction of Freeman Mortuary.

PRESERVATION OF LIFE THROUGH WATER RESOURCES PLANNING ACT OF 1993

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise to introduce bipartisan legislation

which would direct the Army Corps of Engineers to fully consider the prevention of the loss of human life when planning water resources projects.

Mr. Speaker, currently the prevention of loss of life is not one of the main criteria in deciding whether to proceed with a water resources project. As my colleagues may be aware, economic and environmental factors are weighed more heavily than the consideration of how many lives a flood control project could potentially save. In practice, this means that if you live in an affluent area prone to flooding, your area is more likely to qualify for a flood control project than a poor area. Conversely, if you reside in a poor area with low property values, that area probably would not qualify for a flood control project. My legislation would simply help even this disparity by including the value of preventing the loss of life when the Army Corps does its cost/benefit analysis of a water resources project.

Mr. Speaker, perhaps an even more disturbing fact is that the Army Corps factors in the cost of livestock when deciding whether to build a flood control project, yet the Corps does not quantify human life in the same terms. In this century alone, tens of thousands of Americans have perished in floods. My colleagues may recall that recently four people in Texas and Oklahoma died due to severe flooding. Clearly, if the Corps can consider the loss of animals when determining the viability of a water resources project, the Corps can also at least equally weigh human life.

Mr. Speaker, I am pleased that Congresswoman SHEPHERD, and Congressmen GALLO, SAXTON, MENENDEZ, MICA, and JEFFERSON have joined me in introducing this legislation. I invite my colleagues to help rectify this inequity in the law by also cosponsoring this legislation.

IN RECOGNITION OF DR. RICHARD H. MOY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. COSTELLO. Mr. Speaker, I rise today in recognition of Dr. Richard H. Moy, who is stepping down as the founding dean of the Southern Illinois University [SIU] School of Medicine in September. Dr. Moy was selected to head Illinois' downstate medical school in 1969. He is presently the senior ranking dean among deans of the Nation's 126 medical schools.

Dr. Moy's mandate for the school to provide humane and caring physicians for Illinois has created many revolutionary ideas that are now standards for medical school accreditation. Dr. Moy is an active member of the Association of American Medical Colleges and also serves on the U.S. Medical Licensing Examination Committee and the National Board of Medical Examiners.

Though he is giving up his position as senior dean, Dr. Moy will become dean emeritus and continue to serve at SIU. I am thankful for his contributions to SIU's School of Medicine and to medical education in Illinois. I wish him well in his retirement. Mr. Speaker, I thank my colleagues for joining me in recognition of Dr. Richard H. Moy.

STEVE D. VALDIVIA HONORED

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. TORRES. Mr. Speaker, I rise today to recognize my good friend, Steve D. Valdivia. Steve is retiring from the Community Youth Gang Services after 10 years of dedicated service.

In 1970 the barrios of East Los Angeles were in serious turmoil. Gang vendettas took lives in ever increasing numbers. In a move to neutralize hostilities a group of gang leaders and I arranged a truce in order to use the period of peace to talk things out. We left town and took a weekend retreat in the San Gabriel Mountains. It was there that we reached agreement to work together and rebuild the Maravilla housing project. Central to this peace was the Cleland House and the 18-year-old youth counselor Steve Valdivia.

Steve has dedicated 10 years to the development and betterment of Los Angeles' youth. In 1970, he began his career as a youth counselor at the Cleland House, an antigang community organization in East Los Angeles.

In 1972, Steve was appointed executive director of Cleland House at age 22, then the youngest executive director in a Los Angeles County social service organization. Under his direction and guidance, Cleland House became widely recognized as the leading institution involved in antigang programs and activities. In addition, through the cooperation of community residents, foundations and corporations, Cleland House raised over $4.2 million for its reconstruction and renovation.

In 1983, Steve was appointed by the Los Angeles County Board of Supervisors to serve as the executive director of Community Youth Gang Services. In this capacity, he implemented the Community Youth Gang Services target area strategy which offers a multifaceted target area approach and combines gang intervention, community action, educational and prevention activities in Los Angeles neighborhoods. Steve also initiated the Reduction of Street Violence Program [RSVP], which focuses on the education, prevention, and enforcement of antigang programs and services.

Steve also volunteers his time as chairman of the Prevention Committee of the Los Angeles Inter-Agency Task Force; vice-chair of the Los Angeles County Public Health Violence Prevention Coalition; member of the California District Attorney's Association; member of the Mayor's After School and Education Committee; and as a member of the executive committee of the United Way Roundtable on Gang Violence.

Steve has been recognized as an expert in the dynamics, prevention, and control of gang activity. His expertise has resulted in gang prevention legislation at the local and national levels. In addition, Steve assisted in establishing the City of Los Angeles Youth Opportunities Unlimited [Y.O.U.] Program; and managed the Sweep Up Los Angeles Program.

Mr. Speaker, on June 3, 1993, family, friends, civic leaders, and the community of Los Angeles will be gathered to honor Steve D. Valdivia. It is with great honor and pride that I ask my colleagues to join me in saluting Steve for his tireless and unselfish devotion to the youth of Los Angeles County.

CELEBRATING DR. TONY GONZALES' 40 YEARS IN EDUCATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. STARK. Mr. Speaker, I am here today to pay tribute to a man who has given so much to the people of California, Dr. Tony M. Gonzales. After dedicating 40 years to the field of education, he will retire this June. His gift has been perhaps the greatest of all: The gift of knowledge.

A resident of Union City, CA, Tony served his country by spending both 3 years in the U.S. Air Force, and 2 years in the U.S. Army, Through education, he has received almost as many letters as the alphabet; Tony earned degrees from B.A. to M.A., and Ed.S. to Ph.D.

Tony has dedicated his professional life to sharing knowledge with others through continuous involvement in the educational process. A lifetime member of the National Education Association, he taught high school for 8 years, was an assistant high school principal for 4 years, and principal himself for another 4.

Tony's dedication and commitment is exemplified through his work in the field of bilingual education. He both chaired and coordinated five northern California bilingual-multicultural conferences. Tony also cochaired the first California Association for Bilingual Education [CABE] held in San Francisco. And 18 years were spent hard at work as a director of bilingual education.

I ask my colleagues to join me in honoring Dr. Tony Gonzales on the eve of his retirement. After 40 years in education, he deserves both our warmest wishes and profound thanks.

NATIONAL PREVENTIVE STRATEGY FOR ADULT IMMUNIZATIONS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. MURTHA. Mr. Speaker, President Clinton has spoken often about the need for increased childhood immunizations, and I'm thankful for his voice in that critical area, however there is another area that must not be forgotten. Thousands of adults in the United States die every year because of diseases that can be prevented by vaccines.

Partnership for Prevention, a nonprofit organization whose mission is to ensure that health promotion and disease prevention receives the same attention given to treatment

and diagnosis in addressing the Nation's health care needs, has prepared a report which I and Senator DAVID PRYOR are distributing to our House and Senate colleagues.

The report contains some disturbing information. The report states that up to 60 times more adults die from vaccine-preventable diseases than children. The most alarming fact about this is that these deaths are preventable, and yet only 32 percent of Americans over the age of 65 receive an annual influenza vaccine.

Why are so few Americans properly immunized? The report states that there are a number of reasons, and heading the list of reasons is the fact that adult susceptibility to infectious diseases is not a national priority. There is no well-organized, widely accepted advocacy effort at the national level to promote adult immunization coverage as there is for children.

We can do our part by informing our constituents about the need for those over the age of 65, as well as adults with chronic conditions, to visit the doctor or clinic to get a flu shot annually.

Secretary Shalala has taken a significant first step by expanding Medicare coverage to include annual influenza vaccinations, but in order for this to be truly effective, we must have a mechanism for informing each beneficiary that this benefit exists.

I also believe that there is more the Federal Government can do, and I look forward to working with my House and Senate colleagues to establish a national strategy which includes a national tracking system which will enable health care providers to determine who has and has no received vaccinations.

I would like to call on my colleagues to join me in this fight, ensuring that our Nation's elderly and our Nation's children receive timely vaccinations saving thousands of lives.

IN TRIBUTE TO DOMINGA VELEZ FOR HER 25 YEARS OF DEVOTED TEACHING

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a woman whose 25 year career as a paraprofessional at Public School 48, is a model of selfless—and joyful—devotion to the children of her South Bronx community.

From her start in October 1967 until her retirement last spring, Dominga Velez played an increasingly important role in furthering the academic goals and supporting the emotional well-being of the children of her school.

While her day-to-day responsibilities entailed assisting in bilingual an monolingual reading programs and helping the youngest pupils in kindergarten and prekindergarten adjust to school life, Mrs. Velez also worked closely with administrators, counselors, teachers and parents to coordinate the most healthy and productive learning environment for the youngsters.

Dominga Velez' contributions extended well beyond her professional activities. An open and loving woman, Mrs. Velez developed strong and lasting bonds of affection with students of all ages who turned to her in times of joy and sorrow, confusion and confidence. The youngsters of P.S. 48 could always count on Mrs. Velez when they needed her warm advice or sympathetic ear.

Mr. Speaker, on behalf of all the people who know Dominga Velez I would like to express to all of my colleagues the profound respect and appreciation we will always have for her.

OPPOSING INCLUSION OF PAKISTAN ON THE STATE DEPARTMENT'S LIST OF TERRORIST STATES

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1993

Mr. FALEOMAVAEGA. Mr. Speaker, I am honored today to join our esteemed colleague who spoke earlier, the gentlelady from Michigan, the Honorable BARBARA-ROSE COLLINS, in urging the administration to change its unfair treatment of a longstanding ally and friend of America—the nation of Pakistan.

I, too, am deeply disturbed that the State Department has threatened to classify Pakistan as a "terrorist state," indicating an intent to throw Pakistan into the same unsavory camp inhabited by the oppressive, anti-Western regimes in Iran, Iraq, Libya, North Korea, and Syria.

Although the longstanding conflict between Pakistan and India over the Kashmir has spawned allegations that Pakistan supports militant separatists involved in terrorist activity in India, Pakistan has staunchly denied such allegations. If concrete, irrefutable evidence exists that Pakistan provided material support to terrorists, surely the country should have been listed in the State Department's April 1993 report to Congress on global terrorism. Pakistan's absence from the Department's list of state sponsors of terrorism certainly indicates that the picture on Pakistan is not clear.

Furthermore, Pakistan, by her recent actions, has shown that she abhors the thought of being stigmatized as a terrorist state. During the Afghanistan war, Islamic fundamentalists from throughout the Arab region converged in Pakistan in preparation to joining the battle. After the war, many of these Islamic fundamentalists remained in Pakistan and some may have become independently involved in terrorist activity. To show her good faith, however, the Pakistan Government since April has been rounding up and deporting these Arab fundamentalists en masse.

Given that Pakistan has never advocated support for anti-American propaganda nor anti-Western rhetoric, and given that Pakistan has always been a staunch ally of the United States in multilateral peacekeeping operations, including Desert Storm and Somalia, I believe that our friends in Islamabad should be given the benefit of the doubt.

Mr. Speaker, I would strongly urge the administration to take another look at Pakistan. Our great Nation's present policy toward Pakistan is unfair, and I urge that we remove Pakistan from the State Department's "active continuing review" list and stop these threats to label Pakistan a terrorist state.